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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. KUSOV (Byelorussian Soviet Socialist Republic) observed that the general discussion was dominated by the question whether or not the covenant should be divided into two. Depending on whether or not it was so divided, the covenant would be a mere scrap of paper or a document that really satisfied men's expectations. In his opinion, the discussion had shown that an overwhelming majority favoured a single covenant, but a few States, including Canada, France, the United Kingdom and the United States of America, placing their national interest above every other consideration, were trying to segregate the economic, social and cultural rights.

2. After stating that reconsideration of the decision adopted at the General Assembly at its fifth session (resolution 421 (V)) would be a flagrant violation of that body's previous resolutions, he reviewed the history of the problem in the light of the reports of the Commission on Human Rights (E/1992)¹ and the Economic and Social Council (A/1884).

3. In resolution 217 (III), proclaiming the Universal Declaration of Human Rights, the General Assembly

* Indicates the item number on the General Assembly agenda.

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

had laid down the plan of work and requested the Economic and Social Council to instruct the Commission on Human Rights to prepare one draft covenant, not two. Some delegations, however, had tried to prevent the Commission on Human Rights from doing useful work, so that, at the time when the covenant should have been discussed at the fifth session of the General Assembly, it was incomplete and did not include any articles relating to economic, social and cultural rights. That was not an accident, but a trick to prevent the proclamation of economic, social and cultural rights, which constituted the basis of civil and political rights. In his view, the turn taken by the current discussion was further proof of the reluctance of the United States delegation to include articles on economic, social and cultural rights in the covenant and of its desire to frustrate the aims of the Charter, which were the welfare of the peoples, equal rights for men and women and the equality of all nations.

4. Although the General Assembly had taken a decision in adopting resolution 421 (V), section E, requesting the Economic and Social Council to arrange for the inclusion in the covenant of articles on economic, social and cultural rights and equal rights for men and women, and had stressed in that resolution the connexion between civil and political rights, on the one hand, and economic, social and cultural rights, on the other hand, the United States delegation was nevertheless continuing to press for reconsideration of that resolution. He concluded that the United States representative, while advocating human rights, was firmly resolved to make no definite concessions on that point, that the delegation of the United States was opposed to the spirit of the Universal Declaration of Human Rights and to the drafting of the covenant; the United States of America hoped, by isolating the economic, social and cultural rights, to deprive the working masses of their rights.

5. Having been crushingly defeated at the fifth session of the General Assembly, the group of States

headed by the United States of America had tried to take its revenge at the twelfth session of the Economic and Social Council. At that session the Council had taken the step of reviewing a decision of the General Assembly, instead of instructing the Commission on Human Rights to execute that decision. Thus, the Economic and Social Council had created a precedent for not complying with General Assembly decisions.

6. At the seventh session of the Commission on Human Rights, the United States and associated delegations had tried to prevent the inclusion in the covenant of articles relating to such economic, social and cultural rights as the right to work, to leisure, social security, equal labour rights for men and women and the right to free education. The United States delegation had then submitted a proposal⁹ under which the signatories of the covenant would undertake to establish in their countries conditions which would lead to the recognition of economic, social and cultural rights. That proposal was, in his opinion, tantamount to a refusal to include economic, social and cultural rights in the covenant.

7. At the same session the representative of France had proposed⁸ that the Commission on Human Rights should meet privately to study the various proposals on economic, social and cultural rights. By that subterfuge it was hoped to eliminate, without arousing public protest, the articles on the rights which constituted the basis of civil and political freedoms. In spite of that, however, the Commission on Human Rights had, at its seventh session, framed texts on the economic, social and cultural rights (E/1992, annex I, part III).

8. Continuing those tactics at the thirteenth session of the Economic and Social Council, the group of countries headed by the United States delegation had managed to secure the adoption by the Economic and Social Council of resolution 384 (XIII) calling upon the General Assembly to reconsider section E of resolution 421 (V), in other words, to go back on the decisions it had adopted at its third and fifth sessions.

9. Mr. Kusov reviewed the arguments that had been advanced in favour of reconsideration of resolution 421 (V). The supporters of revision pointed out that the measures of implementation were not the same for economic, social and cultural rights as for civil and political rights. They maintained that for the latter it was enough to adopt legal measures which could be executed immediately, whereas economic, social and cultural rights could only be established gradually, as conditions permitted.

10. Some representatives, like the representative of the United Kingdom,⁴ had even said that that was a very remote goal. In the opinion of the representative of the Byelorussian SSR, that was a specious argument, for the civil and political rights which, according to that contention, could be immediately implemented,

would be meaningless if they were not based on economic, social and cultural rights. Thus, article 3 of the draft covenant, concerning the right to life, could be put into force by a legislative measure but it would be meaningless unless it was accompanied, for example, by an article on the right to work. The Byelorussian delegation was convinced that, for the future well-being of humanity, the unity of the covenant on human rights should be maintained and that rights which were in reality indivisible should be included in a single instrument.

11. The second contention of those who advocated separate covenants was that the economic, social and cultural rights could not be implemented by legislation. In the Byelorussian SSR, however, such rights were constitutionally recognized and were enforced by the State.

12. Finally, the proponents of two separate covenants claimed that it would be very hard to draft a single covenant embodying articles relating to both categories of rights and that a large number of States would be unable to sign and ratify it. That simply meant that States which refused to sign the covenant would show thereby that they were not prepared to accord to their citizens economic, social and cultural rights.

13. His delegation, therefore, opposed the reconsideration of resolution 421 (V). Although that resolution did not list the economic, social and cultural rights that should appear in the covenant, it had at least the merit of stating that the rights should appear in a single covenant.

14. He supported the proposals made at Geneva by the USSR delegation with regard, *inter alia*, to the right to work, to the free choice of a profession and to social security. If those rights were not clearly expressed, the other rights embodied in the covenant would be entirely pointless. To isolate the economic, cultural and social rights would be to make the covenant completely ineffective.

15. He would have deferred his remarks on the right of peoples to self-determination had he not been compelled by the behaviour of other delegations to state his views. All peoples, whatever their numbers, power or circumstances, had the right to self-determination and to evolution within the cultural environment suited to them. That principle was stated in the Charter but it was denied by the ruling circles of the United States of America, which were seeking to enslave the world.

16. It was to be hoped that the General Assembly would give the Commission on Human Rights explicit directives to prevent the articles on the freedom of information and of the Press being used for war propaganda.

17. His delegation had not changed its position with regard to measures of implementation. It believed that the implementation of human rights was a matter exclusively within the domestic jurisdiction of States, that any interference in that regard should be avoided and that care should be taken to protect national sovereignty.

⁹ See document E/CN.4/539/Rev.1.

⁸ See documents E/CN.4/545/Rev.1 and E/CN.4/SR.207.

⁴ See *Official Records of the Economic and Social Council, Thirteenth Session, 524th meeting.*

The articles on petitions, as currently drafted, would allow of interference in the affairs of other States. The Byelorussian delegation would therefore vote against those articles which, in its opinion, had been so worded as to benefit aggressors.

18. His delegation would vote against the federal clause, which it believed to be inconsistent with the universality of the Declaration. The Committee should vote in the manner he had described in order to ensure respect for human rights in all countries, whether independent nations, colonies, Trust Territories or federal States.

19. Mr. NAJAR (Israel) noted that the Third Committee was unanimous on one essential point: the principle of the equal importance of civil, political, economic, social and cultural rights had been acknowledged by all members, whether they favoured one, two or several covenants. Opinions had differed only on the question whether the economic, social and cultural rights were really rights or whether they were programmes for action and, as such, subject to unavoidable hazards.

20. Some States had been rather reluctant about including in one and the same instrument what might be called the "legal rights" and what might be described as "programme rights". They had felt that the nature and scope of the commitments they would assume by ratifying a single covenant on human rights were not clear and they feared that to sign such a covenant would lead to constitutional difficulties. Those States also seemed to fear lest the covenant should be invoked chiefly for demagogic and political ends wholly foreign to its purpose. That was probably why they insisted on having the civil and political rights and the economic, social and cultural rights incorporated in two separate covenants.

21. It should, however, be noted that such a classification did not represent the real division of human rights into "legal rights" and "programme rights". The United Kingdom and Australian representatives, for example, had already pointed out that all the economic, social and cultural rights were not "programme rights" while the Yugoslav representative had tried to show that all the civil and political rights were not "legal rights" (365th meeting).

22. So long as a solution to existing difficulties was sought solely on the basis of the classification of human rights into civil and political rights and into economic, social and cultural rights, it would be impossible satisfactorily to overcome either those difficulties or the opposition of views in the Committee. Nevertheless, that opposition constituted a real danger for the successful completion of the work on which the Committee was engaged, and no effort, however modest, to ward it off should be spared.

23. The result would be better achieved by using a new approach to the problem of drafting a covenant on human rights. It must be remembered that the principles and methods which had governed the framing of the Universal Declaration of Human Rights were

not necessarily those appropriate to drafting the clauses of a covenant. The two instruments differed in value, purpose and scope. The drafters of a covenant on human rights should be mainly concerned with the effective enforcement of its provisions and that should be the Committee's guiding concern rather than respect for a classification of human rights based upon the nature of those rights, drawing a distinction between civil and political rights and economic, social and cultural rights.

24. Implementation should be regarded as taking place in two different spheres. First, it should be operative within each State through legislative and administrative measures; secondly, supervision of those rights should be exercised internationally. Too much stress could not be laid on the importance of the action which each State should take through its own domestic legislation or on the fact that signing the covenant would not relieve States of their own responsibilities. Furthermore, any misconception about the covenant being intended to institute or regulate economic co-operation between States must be dispelled; such co-operation was and would be a matter for legal instruments quite different from the proposed international covenant on human rights.

25. States bore the primary responsibility for the enforcement of human rights. The authorities of every State party to the covenant would, when the problem arose, have to distinguish between two categories of rights: those which could actually be introduced and enforced by immediate legislative or administrative action and those, recognized in principle, which could in fact be legally enforced only after economic and social programmes of greater or less duration had been carried out.

26. Those considerations of domestic law directly affected the method of implementing human rights at the international level for it was obvious that the "legal rights" required more precise implementation than any conceivable for the "programme rights". The Israel delegation had already stated that, although it believed that the system of periodic reports was applicable to all rights without exception, the human rights committee proposed in the draft covenant could take cognizance only of breaches of legal rights.

27. Another very important problem consisted in the fact that States differed in their development and their structure and so a "legal right" in one State represented only a "programme right" in another; that applied, for example, to the right to social security and to free and compulsory education. If the classification of rights were not identical in all countries, one might well ask who would be responsible for classifying the rights into "legal rights" and "programme rights". His delegation felt it was for each State to decide, when signing the covenant, how the rights under that instrument should be divided in its case and therefore how far it would have to comply with some international system of implementation. That would not create any inequality for it would be understood that a State could draw the attention of the international authority dealing with human rights to a violation committed by another

State only if it followed a procedure equally as stringent as that applicable to itself in similar circumstances.

28. The question of a single covenant or several covenants would become much less important and urgent if the Commission on Human Rights directed its work along the lines the representative of Israel had just suggested. That would have a double advantage: there would be strict equality of treatment for all States parties to the covenant and sufficient elasticity in applying the provisions of the covenant. The Israel delegation would submit later a draft resolution setting forth the principles it had just outlined.

29. Mrs. DOMANSKA (Poland) regretted that the recommendations made by the General Assembly at its fifth session had not been complied with and that certain delegations had succeeded in re-opening a question which had been thought settled; namely, whether the draft covenant should embody only civil and political rights or all the rights to be guaranteed to every human being. Those delegations which had voted against the General Assembly resolution which recommended a single covenant wanted to have that decision reconsidered, though they advanced no new argument in support of their contention.

30. The Polish delegation still thought that only a single covenant embracing all rights would satisfy the hopes placed by the masses in the United Nations. Political and civil rights would be merely illusory unless accompanied by economic, social and cultural rights. Thus, article 3 of the draft covenant stated that everyone had a right to life. That was not merely the right to breathe: it was very closely linked with the right to work, which alone could provide a livelihood. The right to life also meant the right to leisure; but in many countries, particularly the Non-Self-Governing Territories, neither weekly rest days nor holidays with pay were provided, as was proved by the documents of the first session of the International Labour Organisation Committee on Work on Plantations, published by ILO in 1950.⁵ The right to life was also bound up with the right to free primary education because a man who could not acquire a minimum of education could not progress and therefore could not be a useful member of society.

31. Thus, there was an organic link between civil, political and economic rights; any division between them, such as that advocated by the United States delegation, was artificial and reduced them to a dead letter. She cited as an example the United States Constitution, which included articles similar to those which were to define civil and political rights in the covenant. Yet racial discrimination continued in the United States of America and equality before the law was only an empty word. The United States had set up a House Committee on un-American Activities, the very existence of which was tantamount to a denial of freedom of thought. It had passed the McCarran Law, which was irreconcilable with the principle of freedom of opinion, and the Taft-Hartley Law, which abolished

freedom of association. It could not have done so if civil and political rights had been buttressed by economic and social rights.

32. Both kinds of human rights existed in Poland; four of the essential rights recognized there might be cited as examples.

33. The first was the right to work and to choice of employment, guaranteed by a decree of the legislative assembly. Because of the respect paid to that right and as a result of the development of the national economy, Polish industry currently employed 5,700,000 persons as against 2 million before the war.

34. The second was the right to leisure, guaranteed by an act passed in 1945. But that right would be incomplete if full benefit could not be derived from leisure because of unfavourable material circumstances. In Poland the State and the trade unions spent large sums to enable workers to enjoy their holidays.

35. The third right was the right of the masses to education. In 1950-1951 more than 3 million children (as against 2 million in 1938) had attended Polish primary schools. The State did everything possible to give young persons and adults access to primary, secondary, higher and professional education.

36. The fourth right was that of every citizen to take part in the public affairs of his country, for it was only fair that a man whose rights were guaranteed by law should be able to have a say in their application. Polish legislation gave the people executive and legislative power. Through national councils the people themselves controlled the economic, social and cultural life of the country.

37. Those four basic rights did not exhaust the list of rights which should appear in the single covenant. The United States delegation, realizing how difficult it was, under the pressure of public opinion, to argue that two separate covenants were necessary, was currently suggesting that two covenants should be drafted at the same time. Yet everyone knew that that suggestion was a fallacy, because simultaneous drafting did not imply simultaneous ratification or bind Member States to sign both of the covenants.

38. Accordingly, the Polish delegation emphasized once again that all the rights should be included in a single covenant, as recommended in General Assembly resolution 421 (V). The problem might be solved as proposed by the Chilean delegation in its draft resolution (A/C.3/L.180) and by the Chilean and other delegations in their joint draft resolution (A/C.3/L.182).

39. Her delegation endorsed the view expressed in the preamble of the Chilean draft resolution (A/C.3/L.180) that the Commission on Human Rights had not completed all of its work and it approved the operative part, which re-stated the directives given by the General Assembly in its resolution 421 (V), because it believed that the first eighteen articles of the draft covenant needed to be improved. It must, however, reiterate

⁵ See *Basic problems of plantation labour*, ILO Geneva, 1950 (chapter IV).

that it opposed, and had always opposed, section F of resolution 421 (V) because it would be wrong to include in the covenant articles which would give some States the right to meddle in the domestic affairs of others.

40. The Polish delegation also supported the joint draft resolution (A/C.3/L.182), which reaffirmed the terms of section E of resolution 421 (V). It objected to the inclusion of the federal clause, which would not only favour federal States but would enable them to evade their international obligations. It would also support any proposal for the inclusion in the covenant of a declaration on the right of peoples to self-determination.

41. She hoped that in 1952 the Economic and Social Council would give the Commission on Human Rights an opportunity of preparing a draft covenant which the General Assembly could consider very fully at its seventh session.

42. The CHAIRMAN announced that the other speakers on the list were absent or wished to speak later.

43. He added that, after the general debate, the United States, Belgian and Yugoslav delegations would speak in accordance with the right of reply granted under rule 114 of the rules of procedure.

The meeting rose at 12.10 p.m.