



CONTENTS

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, A/C.3/L.203/Rev.1) (continued)	Page 245
--	-------------

Chairman : Mrs. Ana FIGUEROA (Chile).

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, A/C.3/L.203/Rev.1) (continued)

[Item 29]*

JOINT DRAFT RESOLUTION SUBMITTED BY CHILE, EGYPT, PAKISTAN AND YUGOSLAVIA (A/C.3/L.182) (continued)

1. Mr. MUFTI (Syria) said he had some doubts whether the text submitted by the delegations of Belgium, India, Lebanon and the United States of America (A/C.3/L.185/Rev.1) and described in the Secretary-General's note (A/C.3/L.208) as an amendment to the joint draft resolution submitted by Chile, Egypt, Pakistan and Yugoslavia (A/C.3/L.182) represented a genuine amendment.

2. Rule 129 of the rules of procedure provided that a motion was considered an amendment to a proposal if it merely added to, deleted from or revised part of that proposal. Document A/C.3/L.185/Rev.1, however, asked that human rights should be dealt with in two separate covenants, one relating to civil and political rights and the other to economic, social and cultural rights ; whereas the joint draft resolution submitted by Chile, Egypt, Pakistan and Yugoslavia (A/C.3/L.182) proposed that economic, social and cultural rights should be included in one and the same instrument with civil and political rights, and in its preamble based that proposal on considerations with which the contents of the amendment submitted by Belgium, India, Lebanon and the United States of America (A/C.3/L.185/

Rev.1) conflicted. The latter text therefore did not modify a part of the joint draft resolution, but tended to nullify the whole of it.

3. It must therefore be concluded that in allowing a text which really constituted a separate proposal to be presented as an amendment, the officers of the Committee had disregarded the terms of rule 129, the purpose of which was precisely to avoid a situation in which members could wreck a draft resolution submitted in accordance with the rules by so amending it as to nullify its effect.

4. The delegation of Syria considered that the representatives of Belgium, India, Lebanon and the United States of America had adopted an easy but irregular solution, and that the fact that one of the officers of the Committee was among the authors of the pseudo-amendment made the situation worse. It was not too late, however, to repair the irregularity. He therefore called upon the authors of the amendment to resubmit it as a draft resolution.

5. Furthermore, it appeared that in his note on the draft resolutions and amendments (A/C.3/L.208), the Secretary-General had not maintained the strictest impartiality and that he prejudged the decisions to be adopted by the Third Committee on those draft resolutions and amendments. It was surely not necessary to point out in paragraph 5 that some draft resolutions represented duplications, unless the intention was to engineer the defeat of a number of drafts in accordance with the same tactics as those used against the principle of the repatriation of refugees desiring to return home, the pretext being that the ideas contained in the draft resolutions had already been expressed elsewhere. If there had been any duplication, it was for the Committee itself to decide. The Committee had not deemed it useless in the past to reaffirm a fundamental principle. It had, indeed, been of the opinion that such repetition only reinforced the General Assembly's policy and gave it greater consistency.

* Indicates the item number on the General Assembly agenda.

6. Some delegations, including his own, were in no way disposed blindly to follow the directives which the Secretary-General wished to impose upon them; those delegations had quite definite opinions on the proposals submitted to them. He therefore hoped that in its future statements the Secretariat would confine itself to recalling the texts relating to the questions under consideration, without submitting comments that might create injustices.

7. Some members of the Third Committee seemed to display signs of weariness whenever one of their colleagues raised a question of procedure or referred to the rules of procedure. Yet the purpose of the rules of procedure was precisely to safeguard the interest of delegations, and he urged representatives who were anxious to preserve the very foundations of the Organization to try to ensure the strict and conscientious application of the rules of procedure.

8. The CHAIRMAN expressed regret that one of the Committee's officers should have been accused of submitting an amendment in an irregular way. She also regretted that it was necessary to remind the Committee of her intention in all circumstances to conform strictly to the rules of procedure of the General Assembly and of the fact that her membership of a delegation in no way influenced her decisions.

9. The text of document A/C.3/L.185/Rev.1 was a real amendment within the meaning of rule 129 of the rules of procedure. If, however, the Committee considered it necessary to do so, it could decide the point by a vote.

10. Mr. PAVLOV (Union of Soviet Socialist Republics) said that for the time being the Committee had only to study the contents of the texts that were submitted to it; only when they were put to the vote need the Committee enquire into their characteristics.

11. Mr. PAZHAWAK (Afghanistan) thought it would be wise to settle the matter immediately. If the Committee were of the opinion that the various texts submitted as amendments to the joint draft resolution (A/C.3/L.182) were really separate proposals, it would have to decide which of those texts should be considered first.

12. Mr. PAVLOV (Union of Soviet Socialist Republics) said that in his opinion the text submitted by Belgium, India, Lebanon and the United States of America (A/C.3/L.185/Rev.1) proposed a solution contrary to that recommended in the draft resolution submitted by Chile, Egypt, Pakistan and Yugoslavia, and hence was a separate proposal. Consequently the Third Committee would in due course have to put the proposals to the vote in the order in which they had been submitted. Since for the moment, however, the Committee was considering the substance of the texts submitted to it and was not concerned with their status, he formally moved, under rule 115 of the rules of procedure, that the discussion should be adjourned.

13. Mrs. ROOSEVELT (United States of America) said the Committee would be making a regrettable mistake if it did not accept that the Chairman had made

a ruling. The representative of the United States of America would be obliged to oppose the adjournment of the debate, a step which could yield no concrete result, since the Committee would immediately resume consideration of the amendments to the joint draft resolution (A/C.3/L.182).

14. The CHAIRMAN said there could be no question of adjourning the debate, for it had already ended, as the representatives who had spoken after she had ruled that the text of document A/C.3/L.185/Rev.1 was a true amendment had only made statements equivalent to points of order.

15. Mr. MUFTI (Syria) asked whether the Committee could accept a ruling directly at variance with the rules of procedure.

16. Mr. STEINIG (Secretary of the Committee) said that it was not possible to speak of a violation of the rules of procedure in a case such as that which had just occurred. It was fully in accordance with the rules of procedure for the Chairman to declare that a given text was in the nature of an amendment, and for the Committee to give its support to that ruling.

17. Mr. PAZHAWAK (Afghanistan) asked the Secretary of the Committee in what circumstances the Chairman of a Committee was expected to give a ruling.

18. Mr. STEINIG (Secretary of the Committee) replied that, when a representative raised a point of order in connexion with one of the rules of procedure, the Chairman could give a ruling on that point of order. During the discussion which had just taken place, at least one speaker had stated that he did not regard document A/C.3/L.185/Rev.1 as an amendment to a draft resolution. The statement had certainly been in the nature of a point of order and the Chairman's ruling had therefore been justified. The ruling had not been challenged, and the Committee could therefore continue its consideration of the texts before it.

19. Mr. CARIAS (Honduras) stated that, although his delegation had not yet spoken on the question of a single covenant or two separate covenants, it had nevertheless followed the discussion with the closest attention. During the drafting of the Universal Declaration of Human Rights, to which it had given its unreversed support, it had given proof of its deep concern for human rights. Three years had passed since the adoption of the Declaration (General Assembly resolution 217 (III)), but there existed in the world multitudes of human beings for whom the majority of the provisions of the Declaration were unrealizable dreams. In many areas the implementation of the Universal Declaration of Human Rights demanded a vigorous educational campaign to eliminate racial prejudices and hereditary psychological obstacles and to bring about the triumph of reason.

20. Accession to the covenant must not be indefinitely deferred, nor must it be a meaningless formality. The implementation of the Universal Declaration of Human Rights demanded far-reaching legislative action by governments. A programme as vast and ambitious as that which would be in keeping with a single covenant

embodying economic, social and cultural rights, as well as civil and political rights might well unduly delay the ratification of the covenant. Countries differed in their degree of economic and social development and some countries would encounter difficulties if all the provisions of such a covenant were to be implemented forthwith; those circumstances had to be taken into account.

21. His delegation was therefore convinced that only by drafting two separate covenants could it be hoped to bring governments to undertake the difficult transition from the world of realities to the world as envisaged in the draft international covenant on human rights. Indeed, even if governments had been in a position to ratify a single covenant and to implement the provisions relating to economic, social and cultural rights on the same conditions as those relating to civic and political rights, there would still be another argument in favour of two separate covenants. If, as contemplated in part IV of the draft covenant before the Committee (E/1992, annex I), a human rights committee empowered to investigate complaints of violations of human rights were established, its competence should be limited to civil and political rights, while the gradual implementation of economic, social and cultural rights should be made the subject of periodic reports.

22. The delegation of Honduras would therefore vote in favour of drawing up two separate covenants, in the sincere hope that, while granting enjoyment of civil and political rights to their peoples, the States would also make efforts to hasten their economic and social development; and, without stopping at pious declarations, would accomplish a concrete and lasting work.

23. Mr. D'SOUZA (India) thought he could discern a remarkable *rapprochement* between various views which had previously been opposed. Without referring to the substance of document A/C.3/L.185/Rev.1, upon which sufficient comment had already been made, he wished to explain that those who were in favour of two separate covenants were fully as concerned with economic, social and cultural rights as were the supporters of a single covenant. But a covenant was an instrument which should be acceded to without reservations, and that was why it was important to avoid putting governments in a position which would prevent them from acceding or would make them accede with implicit reservations. The drafting of two separate covenants in no way prejudiced the principle of the unity of human rights, a principle which he was as anxious as anyone to safeguard; for that reason he was happy to accept the French amendment (A/C.3/L.192/Rev.2).

24. Mr. VALENZUELA (Chile) said that he had already (362nd meeting) set forth his delegation's views in the general discussion, and that he would speak only on the French amendment and on that of Belgium, India, Pakistan and the United States of America. The French amendment (A/C.3/L.192/Rev.2) was the broadest in form, but in substance its object was to replace the original single covenant by two separate covenants, just like the four Power amendment (A/C.3/L.185/Rev.1). But the existence of two covenants

would only in theory enable governments to subscribe to economic, social and cultural rights without undertaking any commitment to guarantee their observance, since governments would be able, at will, to accede either to both covenants or to only one of them. A single covenant, on the other hand, would force them to make up their minds.

25. Among the successes scored by the democratic world in the work on human rights at the fifth session of the General Assembly¹ was the deletion of the colonial clause² and the decision to draft a single covenant³. The preparation of two separate covenants would be a retrograde step, since what was at stake was not a mere question of implementation, but rather one of principle. The covenant which the Third Committee was to prepare was not one that would in every way be adaptable to the economic, social and political situation of each State, but a covenant that conformed with the aspirations of public opinion, which meant, essentially, of the workers. The workers were weary of hearing abstract principles enunciated, principles which were devoid of meaning for people who did not possess even a proper standard of living.

26. The Chilean delegation could not share the view that the existence of two separate covenants would promote the economic and social progress of the peoples of the world, and was on the contrary convinced that it would encourage economic development only at the expense of working people.

27. Mr. DAZA ONDARZA (Bolivia) said that for reasons beyond its control the Bolivian delegation had been unable to participate in the general discussion on the draft international covenant on human rights, and that he would therefore proceed to explain its position.

28. The Bolivian delegation would abstain from voting on the joint draft resolution (A/C.3/L.182) and would vote for the amendment submitted by Belgium, India, Lebanon and the United States of America (A/C.3/L.185/Rev.1), and for the French amendment (A/C.3/L.192/Rev.2), which would facilitate the accession of all governments to the international covenant on human rights.

29. Economic, social and cultural rights were safeguarded by the Bolivian Constitution, which contained provisions relating to the economic system, the social system, the family and cultural matters. Bolivia firmly believed that there could be no true democracy so long as there was poverty, sickness and ignorance. Therefore, unless those problems were solved, freedom and civil and political rights could not be enjoyed. To draw up a separate covenant on economic, social and cultural rights would thus reinforce the covenant on civil and political rights, but the implementation of the rights it laid down would depend on a number of factors. The Committee should stress international co-operation in the draft covenant on economic, social and cultural rights. Although the Bolivian Constitution

¹ See *Official Records of the General Assembly, Fifth Session, Third Committee* 287th to 315th and 318th meetings.

² *Ibid.*, 306th meeting.

³ *Ibid.*, 302nd meeting.

guaranteed those rights, Bolivian workers did not in practice possess them, for reasons beyond the control of the Government; for buying agencies had fixed a price for tin, the country's principal export, which was neither right nor fair.

30. Sir Lionel HEALD (United Kingdom) submitted the amendment (A/C.3/L.188) proposed by his delegation to the joint draft resolution under discussion (A/C.3/L.182).

31. During the general debate his delegation had emphasized (361st meeting) the need for further serious consideration of the suitability of economic, social and cultural rights for inclusion in a general convention and of the possibility of creating binding legal obligations in respect of such rights. It had urged that governments should give more thought to those problems, and it was with that object in mind that it had proposed the amendment, which was connected with the amendment submitted by Belgium, India, Lebanon and the United States of America (A/C.3/L.185/Rev.1); and which it would withdraw if the latter amendment was not adopted.

32. The United Kingdom delegation believed that it would help the Commission on Human Rights to know the views of governments about the drafting in legal terms of articles on economic, social and cultural rights and their implementation. Only a few governments had as yet given their views on that subject, but nearly all had commented at length on the first eighteen articles; their observations were set forth in a note by the Secretary-General.⁴

33. In making that suggestion he did not wish to minimize the value of the observations which had already been made and might still be made by members of the Third Committee, but he believed that the Commission on Human Rights would derive more assistance from written observations in which governments might, for instance, indicate whether economic, social and cultural rights could be drafted as legal rights rather than as aims to be achieved and whether any of them would be capable of immediate implementation. Such observations might enable the Commission on Human Rights to concentrate its work more than it had done in the past.

34. The date of 1 March 1952 proposed in his amendment was most important for it allowed the Secretariat time to collate and circulate to the members of the Commission on Human Rights the documents containing the views of governments at least six weeks before the Commission's session opened in April.

35. Mr. GARIBALDI (Uruguay) said that for his delegation the important point was not whether there should be one or two covenants, but that economic, social and cultural rights should be recognized as human rights. He was glad to note that there was unanimous agreement on that point. It was regrettable, however, that the case of economic, social and cultural rights had been so much overstated as to overshadow the importance of civil and political rights. The two

kinds of rights were complementary and neither of them was superior to the other.

36. His delegation would vote for the amendments to the joint draft resolution (A/C.3/L.185/Rev.1 and A/C.3/L.192/Rev.2), which reconciled apparently contradictory arguments and confirmed the unity of the fundamental human rights. Those amendments also had the advantage of including measures of implementation which took into account the features of each class of rights; civil and political rights on the one hand, and economic, social and cultural rights, on the other, could not be judged by the same standards.

37. Those in favour of a single covenant were afraid that if there were two, economic, social and cultural rights would not be protected because certain States would ratify the covenant on civil and political rights, but not the other. The delegation of Uruguay felt that the danger would be lessened if the two covenants were adopted simultaneously. Even if the contingency arose, it should be considered merely as a stage on the way towards the establishment of all human rights. His delegation believed that the draft covenant should evolve in international life just as democracy had evolved over the centuries in step with man's progress.

38. Mrs. BEGTRUP (Denmark) said her delegation still believed that it was necessary to adopt not one single covenant but two; that course was more realistic and more likely to promote the recognition of all human rights.

39. Moreover, the delegations in favour of adopting two covenants included countries which led progress in the field of human rights. Surely there was no reason to doubt the sincerity of their recommendations. Denmark itself was well advanced in the matter of human rights; for many years its citizens had been receiving an education which taught them to respect others as human beings. That was why Denmark followed the United Nations's work with sympathy. There were certainly no grounds, therefore, to suppose that her country was not sincere in recommending the simultaneous adoption of two covenants. It considered that the best way to achieve recognition for human rights as defined in the Universal Declaration of Human Rights adopted in 1948.

40. She realized that the working masses were tired of empty phrases, as the Chilean representative had pointed out; but it would be a long time before a single covenant could be adopted. If there were two covenants, it was reasonable to assume that at least one of them would be ratified. If however the supporters of a single covenant won the day, Denmark would willingly place its experience at the disposal of other countries to help them attain the goal which was the aim of all the members of the Committee.

41. Mrs. RIEMAECKER (Belgium) referred to the statement made by the Belgian representative at the 361st meeting, advocating the simultaneous adoption of two covenants. Her delegation supported the French amendment (A/C.3/L.192/Rev.2), which emphasized the need to maintain the parallel between the two instruments.

⁴ Document E/CN.4/528.

42. Mr. AZKOUL (Lebanon) explained that he had joined with the representatives of Belgium, India and the United States in submitting an amendment (A/C.3/L.185/Rev.1) to the joint draft resolution (A/C.3/L.182) rather than an independent draft resolution, because he thought certain passages of the original text ought to stand. In particular, he was referring to the first three paragraphs of the preamble, which stressed the unity of civil, political, economic, social and cultural rights. He supported the French amendment for the same reason.

43. His delegation had already expressed its views on the number of covenants to be adopted. It seemed at times that the discussions which had been going on for several years did not relate to a covenant imposing legal obligations on the signatory parties, but to a programme of economic, social and cultural assistance, and that certain countries were trying to deprive others of the benefit of that assistance. That paradoxical situation was, he feared, due to a misunderstanding. The under-developed countries were strenuously arguing for economic, social and cultural rights as if they were trying to obtain them from other countries, whereas in reality it was the business of their own governments to grant those rights to them. Moreover, the countries in favour of two covenants were those in which human rights had progressed furthest, and if there were to be any charges of violation of economic, social and cultural human rights, it was those countries which would have grounds for indicting the under-developed countries.

44. The Chilean representative had said that the adoption of a single covenant would be a great victory for the working masses. But two legal documents would in no way decrease the obligations of the signa-

tory parties towards one another: the obligation remained the same. A government signing a single covenant would not have more obligations than one signing two. From the practical point of view it was quite true, as the Chilean representative had pointed out, that if the principle of two covenants was adopted, a government could, if it chose, sign only one of the instruments, but it would remain equally free to withhold its signature from a single covenant. Consequently, if a State had objections to civil and political rights or to economic, social and cultural rights it could, if there were two covenants, refrain from signing one of them, but obviously if there was only one covenant it would prefer not to sign at all. Accordingly, the principle of a single covenant seemed most dangerous.

45. He did not think that the adoption of two covenants was a retrograde step. It would be if a declaration of principle, such as the Universal Declaration of Human Rights, were involved. But in the case in point it was proposed to implement rights which, it was commonly agreed, fell into two categories: everyone agreed that economic, social and cultural rights should be drafted in a less categorical form than civil and political rights, and that there were circumstances beyond a government's control which might prevent it from enforcing those rights, whereas no compromise was possible in the case of the rights set forth in the first eighteen articles.

46. He hoped, therefore, that the supporters of a single covenant who accepted the idea of stages in the implementation of human rights would realize that two covenants would make the task of governments easier and be more in line with the trend of historical development.

The meeting rose at 11 p. m.