



Thursday, 17 January 1952, at 10.30 a.m.

Palais de Chaillot, Paris

C O N T E N T S

	Page
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, A/C.3/L.220) (continued)	257

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, A/C.3/L.220) (continued)

[Item 29]*

REVISED DRAFT RESOLUTION SUBMITTED BY POLAND (A/C.3/L.203/Rev.1)

1. The CHAIRMAN reminded the Third Committee that at its 387th meeting it had, on the proposal of the Mexican representative, decided to adjourn consideration of the Polish draft resolution for forty-eight hours. That time limit had expired. The Committee had before it the revised text of the draft resolution (A/C.3/L.203/Rev.1) and a joint procedural motion relating to it submitted by the delegations of Brazil, Colombia, Costa Rica, Honduras, the Netherlands, New Zealand, Nicaragua, Peru, the United Kingdom, the United States of America and Venezuela (A/C.3/L.220).

2. Mr. ESQUIVEL (Costa Rica) said that his delegation thought that the Committee could not examine the substance of the Polish draft resolution, which dealt with a matter not within the scope of the draft international covenant on human rights. It had accordingly joined the sponsors of the joint procedural motion (A/C.3/L.220) and was asking the Rapporteur to insert a statement to that effect in his report.

3. He asked the Chairman to call for the discussion of that motion.

4. Mr. DE ALBA (Mexico), speaking on a point of order, said that, although he did not wish to prejudge

* Indicates the item number on the General Assembly agenda.

the Third Committee's decision with regard to the joint procedural motion, he thought there ought to be an exchange of views to enable the Secretariat and certain members of the Committee to supply what further information they had. After that exchange of views members would be better informed on the matter and, when the joint procedural motion (A/C.3/L.220) was put to the vote, they would be able to decide whether the Committee was competent to take action on the Polish draft resolution. If they decided that it was competent, the Polish draft resolution would thereupon be discussed. If, however, the joint motion was put to the vote without discussion, it might seem that the Committee was reconsidering its previous decision and was trying to drop a subject without thoroughly discussing it.

5. The CHAIRMAN observed that the Committee could not decide whether it was competent to discuss the Polish draft resolution without examining some of its essential aspects. But the Committee should deal with the substance only in so far as that was absolutely necessary in order to decide the question of competence.

6. Mrs. ROOSEVELT (United States of America) said that the joint procedural motion (A/C.3/L.220) submitted by eleven delegations, including her own, showed that the Committee need not take a decision with regard to its competence to consider the subject of the Polish draft resolution, as the subject had not been submitted in due form.

7. The Polish delegation was submitting its draft resolution under item 29 of the agenda. It should be remembered however that the Third Committee was called upon to draw up general instructions to guide the Commission on Human Rights in preparing an international covenant on human rights; that did not mean that it should consider a specific case such as that presented in the Polish draft resolution. The Secretary-General received thousands of communications dealing with similar cases in certain countries.

8. Under the joint procedural motion, the Rapporteur would simply include in his report a statement that the Committee, without considering the substance of the draft resolution submitted by the delegation of Poland, decided that the subject matter of the draft resolution was not within item 29 and that it was not authorized to introduce new items on its own initiative.

9. If the Polish delegation attached such importance to the matter, it could propose that it should be placed on the agenda of the General Assembly and submit it to the General Committee for consideration in accordance with rules 15 and 40 of the rules of procedure. If the Assembly decided to accept the item and send it back to the Committee, the Committee could then undertake consideration of it. It was for the General Committee and the Assembly, however, not for the Third Committee, to decide.

10. It was to be hoped that the Committee would be able to adopt the joint procedural motion before it so that it could return to dealing with the urgent matters still to be decided in connexion with the draft international covenant on human rights.

11. Mr. ALFONZO RAVARD (Venezuela) said that the Committee's decision to defer consideration of the Polish draft resolution for forty-eight hours had not implied that the Committee would immediately thereafter embark upon the examination of its substance. The interval had been intended to enable the members of the Committee to obtain additional information, to reflect both on the substance and the procedure entailed, to assess their responsibility and to take whatever decision seemed logical with regard to the position they assumed.

12. Mr. BELAUNDE (Peru) thought that rule 120 of the rules of procedure was not pertinent to the case; the question of the Committee's competence did not arise, as the proposal contained in the Polish draft resolution had not been submitted through the General Committee in accordance with regular procedure. It was consequently out of order.

13. Otherwise, anyone could submit a proposal on any matter. Under the pretext that the Committee's competence to consider a matter could not be decided without examining the substance of the matter, the Committee would be compelled immediately to embark on a discussion of a matter not on the agenda. The Committee should consider the question of competence only in cases in which the matter to be considered had been transmitted to it by the General Committee in accordance with the rules of procedure.

14. Accordingly, the Peruvian delegation joined the United States delegation in averring that the question of competence did not arise in connexion with the Polish draft resolution. The draft resolution must be dropped if the Committee was to continue its work in accordance with the regular procedure and if it were to maintain its prestige.

15. Mr. KATZ-SUCHY (Poland) outlined the procedural position of the Third Committee before it had decided at its 387th meeting to postpone the consid-

eration of the Polish draft resolution for forty-eight hours.

16. On 2 January 1952, the Polish delegation had submitted, in connexion with the draft international covenant on human rights, a draft resolution on the defence of twenty-four inhabitants of Barcelona threatened with capital punishment. The Third Committee, which was considering the general problem of human rights, had seemed to be the appropriate organ to consider individual cases of the violation of those rights. In view of the gravity and urgency of the situation, and of the number of draft resolutions that had already been submitted in connexion with item 29 of the General Assembly's agenda, the Polish delegation had requested at the 387th meeting that its text should be given priority. At the same meeting, although the Polish delegation had considered that the Committee could study its draft immediately, it had agreed to the Mexican proposal to postpone consideration for forty-eight hours, in order to enable the Secretariat and the members of the Committee to collect additional information. At that time, certain members were already trying indirectly to prevent consideration of the question. The Polish delegation, however, had accepted the Chairman's decision that, in view of the precedents created by the Third Committee and other organs, the Polish draft resolution was receivable. The Haitian delegation had then raised the question of the Committee's competence, and in the circumstances it had been decided to postpone the discussion for forty-eight hours.

17. After that lapse of time, the Polish delegation had been convinced that it would be possible rapidly to solve a humanitarian problem which, in spite of its importance, was very simple and had no political implications. It was therefore surprised to see that some delegations had seen fit to submit a proposal alleging that, under rule 97 of the rules of procedure, the Committee was not authorized to introduce the draft resolution and that the subject dealt with in it was not on the agenda. While claiming to defend the rules of procedure, the authors of the motion—it was not at all surprising to see who they were—were trying to impose their political ideas, in spite of the humanitarian principles they professed. It was not customary to hear in procedural discussions statements as violent as that which the Peruvian representative had just made, and that very vehemence clearly showed that the question was not one of procedure alone. The Peruvian representative, like those who were with him in seeking to defend the Franco régime, would like to distract the Committee's attention from a problem which it was entitled and bound to consider. He would stand by while men who had committed no other crime than to struggle against starvation, poverty and unemployment were imprisoned, punished and condemned to death. The attitude adopted by the representatives to whom the Polish draft resolution had been submitted would make it possible to appraise the true worth of their democratic convictions, and it was to avoid such an appraisal that some members were trying to eliminate the Polish draft resolution by submitting so-called procedural motions.

18. The Committee should abide by its former decisions. The Polish delegation had submitted a draft resolution which fell within the purview of item 29 and should therefore be voted on. Certain members of the Committee had questioned the Committee's competence to consider the draft and others had submitted procedural motions. The Committee should consider all the points before it and the order of voting on them should be decided at the time of the vote. It was obvious that the joint proposal (A/C.3/L.220) did not constitute a simple procedural motion, which, under rule 118, would have priority over matters of substance, but represented a draft resolution like the others. It was therefore for the Committee to decide on the order in which the proposals should be put to the vote.

19. He asked the Chairman to apply the rules of procedure strictly, on the basis of the principles invoked by the Peruvian representative, that is, in order to ensure the smooth and orderly operation of the Committee's work, to safeguard the Committee's prestige and to ensure respect for human rights.

20. The Polish delegation regarded as inadmissible the United States representative's view that the Committee should not deal with individual violations of human rights. The Committee had to carry out a far-reaching humanitarian mission, but that general task should not prevent it from considering individual cases and situations to which its attention was drawn, even if they concerned only a small number of persons. It was by dealing with individual cases that the Third Committee would make progress in carrying out its main task.

21. The CHAIRMAN explained that she had not decided on the Committee's competence to consider the Polish draft resolution, but had merely referred to precedents created in that connexion, and especially to the Uruguayan draft resolution on the flood victims in Italy (A/C.3/L.156). There had therefore been no formal decision from the Chair. In view of the divergency of the views expressed, she thought that it was for the Committee itself to settle the question.

22. Mr. SEVILLA SACASA (Nicaragua) was convinced that the Polish draft resolution constituted a new agenda item, and under rule 40 of the rules of procedure it was for the General Committee to examine requests for the inclusion of additional items and to make recommendations thereon to the General Assembly.

23. His delegation's reasoning was based solely on the procedural point of view. Nevertheless, he could advance other arguments of substance and, in particular, invoke against the Polish draft resolution the principle of non-intervention in the domestic affairs of States. He therefore reserved the right to speak on the substance of the question if the Committee did not adopt the motion (A/C.3/L.220) submitted jointly by Nicaragua and other countries.

24. Mr. BUNGE (Argentina) recalled his statement at the 387th meeting to the effect that the Committee was not competent to consider the draft resolution submitted by Poland; at that time, he had reserved the right

to explain his delegation's position on the matter later, if necessary. The Committee was not competent to consider the draft resolution (A/C.3/L.203/Rev.1) for both procedural and substantive reasons. From the procedural point of view, it was obvious that the Polish draft resolution did not fall within the scope of agenda item 29. It was a new question. Rule 97 of the rules of procedure, however, provided that Committees should not introduce new items on their own initiative, rule 15 fixed the time limits for the submission of additional items, and rule 40 provided that the General Committee should decide on the inclusion or rejection of additional items. The exception made in the case of the Uruguayan draft resolution on the flood victims in Italy had been invoked, but that exception had been justified by the unique circumstances. The Committee could not make a rule of an exception, for its rules of procedure would then become a dead letter and it would soon find itself unable to continue its work because of a confused situation for which it would itself bear the sole responsibility.

25. It was not only because acceptance of it would be contrary to all the rules of procedure that the Polish draft resolution was not in order. Consideration of the substance of the draft showed that it constituted flagrant interference in the domestic affairs of a State, in contravention of Article 2, paragraph 7, of the United Nations Charter, which provided that nothing contained in the Charter should authorize the United Nations to intervene in matters which were essentially within the domestic jurisdiction of any State. Moreover, in the case under discussion, the matter concerned a non-member State, in respect of which the Organization was competent, under Article 2, paragraph 6, to intervene only so far as might be necessary for the maintenance of international peace and security. It could not be maintained that the matter at issue constituted a threat to peace and security. Spain could not be held to bear the responsibility for the existing international tension.

26. In the revised draft resolution submitted by Poland (A/C.3/L.203/Rev.1) the President of the General Assembly was requested to make certain representations to the appropriate Spanish authorities. Nevertheless, the matter concerned twenty-four Spanish nationals who had committed offences in Spain against Spanish laws and had been tried by a Spanish court. Such representations would therefore be contrary to Article 2, paragraph 7, of the Charter. They would also be contrary to article 54 of the draft international covenant on human rights, which provided that the proposed committee on human rights should deal with a matter referred to it only if available domestic remedies had been invoked and exhausted, which was not the case. Thus, if the General Assembly was not competent in the matter, the Third Committee was even less so. Mr. Bunge added that his delegation respected the humanitarian considerations involved, as such. Those considerations were a tradition strongly rooted in the soul of Argentina. However he believed that in order to contribute usefully to the matter, it was necessary to act with prudence and moderation, both of which were lacking in the Polish draft resolution.

27. In view of those considerations, and in order not to disorganize the Committee by violating the rules of procedure and thus preventing it from completing its task successfully, the Argentine delegation would vote for the joint procedural motion (A/C.3/L.220), because it considered that the question of formal competence had priority over that of substantive competence.

28. Mr. PAZHAWAK (Afghanistan) acknowledged that the draft resolution under discussion did not come under item 29 of the agenda. Obviously, however, it was closely linked with the matter of human rights and nothing related to human rights should be alien to the Third Committee. From the humanitarian point of view, the proposal was of great importance, or at least of sufficient importance for the Committee not to be able to remain indifferent to it. Accordingly, the Afghan delegation wished to take part in the discussion.

29. The rules of procedure to be considered were not only rules 15, 40 and 97, but also rule 120, under which any motion calling for a decision on the competence of the Committee to adopt a proposal submitted to it should be put to the vote before a vote was taken on the proposal in question. But the application of rule 120 was subject to the provisions of rule 118, which listed a number of specific cases; that listing was obviously restrictive. Recourse must therefore be had to rule 72, which provided that the Chairman decided in such a case. The Chairman should therefore make a ruling.

30. To prevent the Committee from making a definite decision and to refer the matter to the Rapporteur, ignoring the fact that he could include in his report only what the Committee had in fact decided, would be regrettable.

31. He asked what representations the President of the Assembly could make to the Spanish authorities in accordance with the Polish draft resolution. The Argentine representative had spoken of the relations of the United Nations with non-member States; but, in the case of Spain, normal relations with such States were not involved. Assuming that the Polish draft resolution was adopted, he wondered through what channels and by what means representations could be made to the Spanish authorities. If such action was to be taken through countries maintaining diplomatic relations with Spain, he would like to know what countries would be prepared to act; only when he knew that would he have enough information to enable him to make up his mind. If something could be done from the humanitarian point of view, his delegation would vote for the Polish draft resolution; but if the steps contemplated were not feasible or would necessarily be vain, it would be unwise to place the President of the General Assembly in a false position.

32. Mr. ALFONZO RAVARD (Venezuela) said that there seemed to be some confusion about the Mexican proposal (387th meeting). In the first place, the Mexican representative had asked the Committee's officers to take the initiative but, when the Secretary of the Committee had replied that that would be very difficult in view of the special position of the United Nations

towards Spain, the Mexican representative had proposed that the discussion should be postponed for forty-eight hours in order to enable the Committee to obtain factual information. His delegation had interpreted that the various delegations were to obtain the information they needed on the situation by their own means and on their own account.

33. Any statement by the Secretariat would necessarily go into the substance of the question. His delegation did not consider that the Polish draft resolution had been submitted in the proper way and, in the circumstances, to hear the Secretary of the Committee would be a violation of the rules of procedure and would create an unfortunate precedent. His delegation was therefore categorically opposed to it.

34. Mr. ROY (Haiti) did not think that the question of competence had been raised. The representatives of the United States of America and Denmark had referred to it at the 387th meeting, but the Mexican proposal had then been adopted after the withdrawal of the Haitian motion (387th meeting) asking the Committee to decide on the question of competence. He had been rather reluctant to withdraw his proposal because he had realized that the only result would be to postpone the discussion on the point.

35. He was surprised that the joint procedural motion (A/C.3/L.220) raised only the question of admissibility and not the question of competence and invoked rule 97 of the rules of procedure, but not rule 120. However, since the question of competence had been mentioned, his delegation was fully convinced that the Committee was competent to discuss the question. The United Nations Charter and the Universal Declaration of Human Rights should not remain a dead letter, and the States which had signed them had thereby contracted certain obligations and had implicitly admitted some limitation of the sovereign rights of States. It must be admitted that the very purpose of the Charter was to limit the absolute sovereignty of States.

36. He was glad to note that the delegations of the USSR and Poland, which were generally the most fervent champions of State sovereignty, were implicitly admitting that the United Nations was entitled to intervene anywhere, whether it was in France, in Haiti, in Spain or in the USSR, when human rights were at stake. He repeated, however, that the question of competence had not been raised.

The meeting was suspended at 12.20 p.m. and resumed at 12.30 p.m.

37. Mr. DE ALBA (Mexico) recalled that his proposal had been adopted at the 387th meeting by 30 votes to 12. There had been two points in the proposal: first, that the discussion on the Polish draft resolution should be postponed for forty-eight hours in order to enable the Committee to obtain precise factual information through the Secretariat; and, secondly, that the States which had diplomatic relations with Spain should ask for information from their embassies and consulates and should pass that information on to the Committee. In his opinion, the Committee should hear the Secretary's statement in accordance with the deci-

sion it had taken by a majority of 30 votes. He added that the Chairman had interpreted his proposal quite correctly.

38. Mr. PINTO (Brazil) endorsed the Venezuelan representative's attitude. Under rule 116 of the rules of procedure, he proposed that the debate should be closed and that the proposal, of which he was one of the co-sponsors (A/C.3/L.220), should be put to the vote.

39. Mr. GARCIA BAUER (Guatemala) was astonished that any delegation should object to the Committee's hearing the Secretariat when the Secretariat had a useful statement to make. He thought that the necessary information should be supplied by the Secretariat and he asked that the Secretary of the Committee should give that information.

40. Mr. KATZ-SUCHY (Poland) was greatly surprised at the Brazilian representative's proposal since the Committee had not started to discuss any proposal and the debate thus far had dealt solely with points of order. Consequently, he asked the Brazilian representative to withdraw his motion for the closure of the debate so as to enable the Committee to follow its normal procedure and to examine all the drafts submitted to it. Regardless of the procedural position, the Committee should in any event first hear the representative of the Secretariat, who would give the necessary information, as he was authorized to do under rule 111 of the rules of procedure.

41. Mr. PAVLOV (Union of Soviet Socialist Republics) asked on what subject or on what document the Brazilian representative wished to close the debate. A debate could not be closed if it had never begun and the first part of the Brazilian proposal was therefore out of order. It was quite natural that the Brazilian delegation should try to make the Committee vote on the joint procedural motion, of which it was one of the sponsors, but, before voting, the Committee should discuss the substance of the proposals submitted and the order in which they should be put to the vote. Thus the second part of the Brazilian proposal was also out of order.

42. Mr. URQUIA (El Salvador) supported the joint procedural motion (A/C.3/L.220), but did not agree with the motion for closure of the debate. The Committee had not yet discussed any proposal and had in fact dealt solely with points of order. He therefore asked the Brazilian representative to withdraw his motion for closure.

43. Mr. ROY (Haiti) asked on what subject the debate was to be closed.

44. Mr. PINTO (Brazil) explained that his motion was to close the debate on the procedural issues and to put to the vote the joint procedural motion (A/C.3/L.220). He maintained that motion.

The motion for closure was adopted by 24 votes to 15, with 15 abstentions.

45. Mr. ROY (Haiti) drew attention to rule 122. The Mexican procedural motion, adopted at the 387th meeting, had asked the Secretariat to supply the Committee

with fuller information. If that proposal was to be reconsidered, so that the Secretariat would no longer have to supply the information requested, the Committee would have to take a decision to that effect by a two-thirds majority of the members present and voting, as stipulated in rule 122.

46. Mr. DEDIJER (Yugoslavia) agreed with the Haitian representative.

47. Mr. KATZ-SUCHY (Poland) interpreted the vote which had just been taken as meaning that the procedural discussion had come to an end and that the Committee would go on to discuss the substance of the question. Accordingly, he asked the Chairman to place his name on the list of speakers in the debate on the substance.

48. Mr. URQUIA (El Salvador) interpreted the vote on the Brazilian motion as meaning that the Committee would close its discussion and pass to the vote on the joint procedural motion (A/C.3/L.220). The joint procedural motion would therefore be put to the vote first and, if it was rejected, the Committee would then vote on the Polish draft resolution (A/C.3/L.203/Rev.1).

49. Mr. BELAUNDE (Peru) agreed with the Salvadorean representative's interpretation. The Committee should first of all take a decision on the irregular character of the Polish draft resolution. He therefore proposed that the Committee should vote on the joint procedural motion (A/C.3/L.220).

50. The CHAIRMAN stated that, even in the absence of a formal proposal to that effect, it was her duty to put the joint procedural motion (A/C.3/L.220) to the vote forthwith.

51. Mr. KATZ-SUCHY (Poland) observed that the Brazilian motion was in two quite distinct parts. Rule 116, which had just been invoked for proceeding to vote, could only apply to the first part.

52. The second part of the Brazilian motion dealt with the order in which the two proposals before the Committee should be put to the vote. If the Brazilian representative maintained his request for priority for the proposal of which he was one of the sponsors, rule 130 should be invoked. But to apply rule 130, the Committee should first discuss the two proposals before it. It would be an unthinkable innovation to proceed to vote on the texts without having discussed them.

53. The CHAIRMAN interpreted the vote that had just taken place as obliging her to put the joint procedural motion (A/C.3/L.220) to the vote forthwith. If a delegation appealed against that ruling, its appeal would be put to the vote immediately.

54. Mr. DEDIJER (Yugoslavia) wondered whether the Committee's decision at the 387th meeting to invite the Secretariat to give it further information on the question was still valid. If such was the case, as he thought, he urged that the Secretary of the Committee should speak.

55. Mr. ROY (Haiti) observed that the Committee had taken two decisions, the one, two days previously,

formally requesting the Secretariat to give information, the other, at the current meeting, terminating the procedural discussion on the two proposals. He wondered under which rule of the rules of procedure the more recent of those decisions would have precedence over the other and formally appealed against the Chairman's ruling.

56. Mr. KATZ-SUCHY (Poland) observed that from a procedural point of view the position was without precedent. For some time, moreover, the Committee had been continually violating the rules of procedure. No provision in the rules authorized the Chairman to take by herself the decision provided for in rule 130; according to that rule, the decision was a prerogative of the Committee. He requested that rule 130 be applied and that the discussion be opened on the substance of the proposals before the Committee. No one could, in fact, oblige the Committee to vote on a text that it had not had an opportunity of discussing. The Chairman's rulings and the appeals against them were exceptional measures that should be kept for exceptional cases; the existing procedural situation had not called for either a ruling or an appeal. He requested the Committee to conduct its proceedings in a normal manner and not to allow itself to adopt a procedure that was imposed upon it by certain delegations.

57. Since the beginning of the debate the Committee had heard nothing but points of order. Before the Secretary of the Committee had been able to reply to the questions put to him, the sponsors of the joint procedural motion (A/C.3/L.220) had laid down a veritable barrage of points of order. That attempt to stifle the discussions was unworthy of the Committee.

58. If, in applying rule 130, the Committee gave precedence to the joint procedural motion (A/C.3/L.220),

his delegation would accept such a decision but it wished at least to have the opportunity of discussing the text.

59. The CHAIRMAN said that, in accordance with rule 112, she would put the appeal against her ruling to the vote.

60. Mr. KATZ-SUCHY (Poland) asked the Chairman to explain whether her ruling applied to the order of voting, the right of the Secretariat to speak, the application of rule 122 or the application of rule 130, for it was impossible to apply one and the same ruling to all the points of order.

61. The CHAIRMAN explained that the Committee would take a decision on the appeal against her ruling that the joint procedural motion (A/C.3/L.220) should be put to the vote forthwith.

The Chairman's ruling was upheld by 30 votes to 2, with 14 abstentions.

62. Mr. PAZHWAQ (Afghanistan) said that, if the Secretariat did not reply to his questions, his delegation would not be able to vote on any of the proposals before the Committee.

63. Mr. DEDIJER (Yugoslavia) said he would like the Rapporteur to indicate how he proposed to draft the part of the report relating to the decision the Committee had taken at the 387th meeting, and which it seemed to be reversing.

64. Mr. BAROODY (Saudi Arabia) moved the adjournment of the meeting.

The motion was adopted by 26 votes to 14, with 9 abstentions.

The meeting rose at 1.15 p.m.