



Saturday, 19 January 1952, at 10.30 a.m.

Palais de Chaillot, Paris

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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)	279

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) (continued)

[Item 29]*

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

1. Mr. DAVIN (New Zealand) said that his delegation would support the joint amendment (A/C.3/L.185/Rev.1) to the joint draft resolution submitted by Chile, Egypt, Pakistan and Yugoslavia (A/C.3/L.182), calling for the drafting of two covenants, since he considered that the two sets of rights required different measures of implementation. Contrary to what had been stated, civil and political rights were not universally enjoyed, and it was important that a covenant covering those rights should be signed as soon as possible, so that the United Nations might take steps to ensure their implementation, pending the implementation of economic and social rights which were less easily enforceable.

2. He assured the representative of the Philippines, who had asserted (393rd meeting) that governments advocating two covenants would not sign the second one on economic and social rights, that his country, which had a good record on the subject of economic and social rights, would bring an open mind to both draft covenants.

3. The New Zealand delegation requested that the French amendment (A/C.3/L.192/Rev.2) be voted in two parts : the first part up to and including the word "possible", the second part from the words "parti-

cularly in so far as" to the end. He would oppose the second part.

4. He would likewise vote against the Syrian amendment (A/C.3/L.219) because he thought that the incorporation of all rights in a single covenant would delay rather than expedite matters. The special provisions proposed for implementation of the second category of rights seemed to him unrealistic.

5. He would vote for the United Kingdom amendment (A/C.3/L.188).

6. Mr. RAADI (Iran) said that his delegation would vote for the joint draft resolution (A/C.3/L.182) calling for reaffirmation of the decision taken by the General Assembly at its fifth session (resolution 421 (V)) to include all rights in a single covenant ; that decision had been taken with full realization of the fact that economic and social rights would inevitably require a longer period for implementation than civil and political rights. He deplored the fact that the Commission on Human Rights had deviated from the spirit of the Universal Declaration of Human Rights.

7. Some countries were arguing that two separate covenants, covering the two sets of rights, would be of greater practical value, since States unable to accede to one covenant might accede to the other. He did not agree : the two sets of rights were essentially interdependent, and ratification of the one was valueless without the other. The effect of two covenants would be rather to widen the rift between the two factions ; the best way to ensure the maximum number of ratification, if that was the aim, was to draft an uncontroversial covenant, covering all rights.

8. The proposal to draft two separate covenants, moreover, raised certain serious practical questions. He wondered whether the two covenants would have separate preambles ; whether the federal and the colonial clauses would be repeated in both covenants ; and whether, if the Administering Powers of Non-Self-

* Indicates the item number on the General Assembly agenda.

Governing and Trust Territories refused to accede to the second draft covenant on the ground that economic and social rights were already guaranteed in the metropolitan country, such territories would be deprived of the benefits of that covenant. He wondered also whether both covenants would contain a clause on the right of peoples to self-determination, in accordance with the thirteen-Power joint draft resolution (A/C.3/L.186 and Add. 1), of which his delegation was a co-sponsor; and what would happen if the Administering Powers of Non-Self-Governing Territories refused to recognize that right. It had been said that some countries might ratify the first covenant, and leave the implementation of the second covenant to the United Nations specialized agencies. Not all countries were members of the specialized agencies; Non-Self-Governing Territories, in particular, could not become members on their own initiative. In any case, the work of the specialized agencies in implementing economic and social rights would be facilitated if the rights were incorporated in a single covenant.

9. He urged the advocates of two covenants to remember their responsibilities; their decision would have great moral implications, as well as important repercussions on the prestige of the United Nations.

10. The delegation of Iran would vote for the joint draft resolution (A/C.3/L.182) and against the amendments thereto.

11. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) said that his delegation favoured a single covenant. All rights were interconnected and interdependent.

12. The arguments adduced in favour of two separate covenants were unconvincing. It had been said that, whereas most countries already enjoyed civil and political rights, the enforcement of economic and social rights would require both time and legislative and constitutional changes. But there were in fact many countries—including the United States of America, twenty of whose states had discriminatory legislation against Negroes, and the United Kingdom, in some of whose colonies only natives were subject to corporal punishment—where political rights were still not enforced. Thus time was needed also for the enforcement of political and civil rights, and no valid differentiation could be made between the two sets of rights on that score.

13. Nor could the attempt to differentiate according to methods of implementation be upheld. As the representative of Denmark had said (393rd meeting), the implementation of all rights must be left entirely to the good faith of the States concerned—any attempt at enforcement by the United Nations would constitute unwarranted interference in the domestic affairs of another State. Thus measures of implementation should be the same for both sets of rights.

14. The other arguments for two separate covenants had already been refuted. The arguments were, in any case, being used merely as an excuse to avoid undertaking any commitments in the economic and social fields; the governments taking that stand would, if they

succeeded in drafting two covenants, then refuse to ratify the second, covering economic, cultural and social rights. The proposal in the joint amendment (A/C.3/L.185/Rev.1) for two covenants to be submitted simultaneously was merely a blind and deceived no one.

15. Moreover, there was no knowing what kind of procedural manoeuvres might be used to bury the economic and social rights covenant. Procedural arguments aimed at a reversal of the General Assembly decision had already been heard; and a French representative to the Economic and Social Council had already said that the Commission on Human Rights must confine itself to a task equal to its capacities, in other words, to the first category of human rights, civil and political.¹

16. The Ukrainian delegation would oppose all such moves, and would therefore vote against the joint amendment (A/C.3/L.185/Rev.1) and against the United Kingdom amendment (A/C.3/L.188).

17. Mr. AZKOUL (Lebanon) wondered why the long-standing division of the Committee into a group supporting the idea of one covenant and another group supporting the idea of two had not been lessened by any appeals to reason. The arguments against the idea of two covenants could be classified under three heads.

18. First, certain delegations, such as that of the Ukrainian SSR, opposed the inclusion of measures of implementation, on the ground that governments were the sole judges of their own actions. It was quite logical for those who were against the measures of implementation to oppose the drafting of two covenants; it was consistent for them to support the idea of including all rights in a single covenant, since that would increase the difficulties in the way of the adoption of any covenant and hence of any machinery for international supervision.

19. Secondly, other delegations based their opposition to the idea of two covenants on an erroneous conception of the legal scope of the covenant. They appeared to think that it was only a statement of ideal principles, that to discharge the obligation it imposed would require long-term programmes lasting as much as half a century or that it was only an instrument to stimulate the masses to demand economic and social rights from their governments. Those delegations therefore viewed with unconcern the difficulties with which governments would be faced in ratifying a single covenant. A covenant, however, was in fact an international treaty, imposing an immediate obligation on the ratifying government to put it into force. There could be no excuse for failing to do so.

20. Thirdly, some delegations had confused the unity of the rights themselves with uniform enforcement. The unity of the rights had been recognized in the Universal Declaration of Human Rights, which had expressly included all rights recognized at the time of its adoption. There was, however, a distinction be-

¹ See *Official Records of the Economic and Social Council, Thirteenth Session, 523rd meeting.*

tween the unity of human rights in principle and their separability in practice. In principle, all human rights derived from the nature and the dignity of the human personality, were equally the appurtenance of all human beings and should be recognized and granted to all. But, as regards implementation, they were not inseparable. If the concept of unity in principle was followed to its logical conclusion, the violation of one right would be tantamount to the violation of all, and respect for one would be tantamount to respect for all. Certainly, the civic and political freedoms and the economic, social and cultural rights were interconnected and interdependent, as stated in the preamble to section E of General Assembly resolution 421 (V); but they were only partially interdependent, and one of those types of rights could be enjoyed without enjoying the other. It was therefore possible that some governments, while recognizing all the rights proclaimed in the Universal Declaration of Human Rights, would not yet be in a position to enter into an international commitment to enforce all those rights at one and the same time. Their failure to admit that possibility had led the adherents of a single covenant into a number of inconsistencies. Thus, they agreed that the single covenant should not contain all the rights proclaimed in the Universal Declaration and that the legal obligation in respect of economic, social and cultural rights should be less wrong than that in respect of civil and political rights. They were also compelled to envisage the addition of further rights to the same covenant as the only way in which international protection of human rights could in future be extended; but that would be prejudicial to the universal nature of the covenant, since States which had ratified the original covenant but were not in a position to enforce the new article would be compelled to denounce the covenant as a whole. Thus, the more new articles were added, the fewer countries would be bound by the covenant.

21. The only practical solution would be the adoption of the joint amendment (A/C.3/L.185/Rev. 1), which would enable the number of protected rights to increase as well as the number of parties to the various covenants.

22. There was no question of going back on the preamble to section E of Assembly resolution 421 (V). The principle embodied therein remained as valid as that underlying the Universal Declaration of Human Rights. It simply implied that the United Nations, conscious that both categories of rights were interconnected, should promulgate them both simultaneously, but, for practical reasons, embody them in separate instruments.

23. Mrs. AFNAN (Iraq) would vote against the joint amendment (A/C.3/L.185/Rev. 1). It merely reflected resolution 384 (XIII) of the Economic and Social Council requesting the General Assembly to reconsider its previous decision. The Council's resolution had not in fact been the result of its having encountered insuperable difficulties, as had been amply demonstrated; it had been due to the reintroduction of a position already defended powerfully but vainly in the General Assembly by members of the same minority which had sponsored the joint amendment.

24. In defence of the Council's resolution the United Kingdom representative had stated (361st and 390th meetings) that all the articles could not be drafted with equal clarity and force; but he had argued thus even before he had seen the draft.^a The United States representative had contended that the two categories of rights differed because one could be enforced immediately, whereas the other expressed long-term aims; but Mrs. Roosevelt had always warned that the inclusion of all rights in one covenant would be an impediment to the progress of human rights. Other delegations had always advanced similar practical arguments; the Belgian delegation, for example, had pleaded (361st meeting) the constitutional difficulty of enforcing the economic and social rights.

25. The proponents of a single covenant had always admitted that the historical civil and political rights could obviously be drafted more forcefully and clearly; but had maintained strongly that progress in the protection of human rights could be achieved only by establishing their interdependence and interrelation as inherent in the human person who was regarded, in the Universal Declaration of Human Rights, as the ideal of the free man, and had recognized that measures of implementation should be included in a covenant that was to be regarded as an organic whole.

26. No new arguments had been advanced, but no new difficulties had arisen. The proponents of the single covenant were deaf to the practical argument only because they represented definite patterns of economic and social life. They had made every possible concession in order to reach agreement on a concept as new as that of the international obligation to protect human rights. But purely practical considerations could not be paramount.

27. The United Kingdom representative had said that the fact that several delegations had voted in favour of the reconsideration of General Assembly resolution 421 (V) showed evidence of mature reflection.^a Yet those delegations — in particular the Indian delegation, which had proposed such reconsideration as soon as the Commission on Human Rights had begun its work — had never explained the mental processes or practical experience that had induced them so to change their views. Even the four sponsors of the joint amendment (A/C.3/L.185/Rev. 1), Belgium, India, Lebanon and the United States of America, appeared to disagree about their reasons for submitting it. None of them had even attempted to prove that the General Assembly's original decision could not be put into effect.

28. The Belgian delegation, while admitting that there was incontestably a link between the two categories of rights, had argued (361st meeting) that political rights were often illusory when they were not solidly based upon economic, social and cultural rights. Thus, it believed that the distinction between the two categories was not absolute, but merely practical. It was to be doubted whether the United States representative would admit that a political right could be illu-

^a See document E/CN.4/SR.248.

^a See documents E/CN.4/SR.203 and E/CN.4/SR.204.

sory; she believed the rights to be of equal value, but regarded one category as fundamental rights and the other virtually as aspirations. The Indian delegation appeared to believe (361st meeting) that the principle underlying all rights was common to them all, but argued that it was not axiomatic that all rights were of equal importance. The representative of Lebanon, Mr. Malik had warned the Committee (370th meeting) against the heresy of subordinating freedom of conscience to material considerations. The Lebanese delegation must be so deeply attached to political and civil freedoms that it failed to regard the other rights with equal affection.

29. Despite their obvious disagreement on principle, the four sponsors of the amendment appeared to agree, although for different reasons, that a covenant embodying only the civil and political rights was more likely to be generally acceptable. Yet, such a view definitely implied that one category should obtain preferential treatment; the simultaneous drafting and submission of two covenants could not alter that fact.

30. The Canadian delegation at least had been frank in expressing (362nd and 393rd meetings) what other delegations believed; it had said that it would give full consideration to a separate covenant embodying the economic, social and cultural rights, but doubted whether the United Nations could draft such an instrument.

31. The argument that the completion of even one covenant would be a step forward in the protection of human rights was unconvincing. The contemporary world had come to believe that the hateful inequalities that had hitherto marred civilization could be at last eliminated by the progress of science. A covenant dealing only with the traditional human rights would not be consonant with that belief; it would not only be valueless, it would be positively dangerous. Only a covenant recognizing the interrelation of all rights would be a real step forward.

32. The representative of Lebanon had asked (370th meeting) what was the use of food and warmth to a man deprived of freedom of thought; the Byelorussian representative had asked (368th and 393rd meetings) what was the use of freedom to a man lacking food and shelter. It was intolerable that mankind should still be faced with such a choice. The joint amendment, by dividing human rights into two categories and by implicitly giving precedence to the civil and political rights, was making that choice more difficult and thus failed even to promote the exercise of the civil and political rights. It was very doubtful indeed that millions who had never known freedom would choose it in preference to protection against their old and intimate enemy, hunger. Far above political considerations lay the principle that the United Nations could not and should not aggravate divisions.

33. She would speak later on the French (A/C.3/L.192/Rev.2) and United Kingdom (A/C.3/L.188) amendments and reply to the Lebanese representative's remarks.

34. Mr. GREEN (United States of America) thought that the first part of the Syrian amendment (A/C.3/

L.219) was confusing and superfluous. The Syrian delegation's anxiety that the civil and political rights should become enforceable as rapidly as possible was to be welcomed; that could best be achieved by means of a separate covenant. States should be asked whether they wished to sign one covenant or the other or, better, both.

35. Some delegations apparently still felt that the proponents of the idea of two covenants were not interested in economic, social and cultural rights. The United States delegation had refuted that allegation (371st meeting), so far as it was concerned, with facts and figures. The United States was interested not only in improving the economic and social conditions of its own people but had made substantial contributions to other countries, because, if they were strengthened, they would be better able to resist aggression.

36. Mr. VALENZUELA (Chile) whole-heartedly agreed with the Iraqi representative. The problem could not be settled definitely by a small majority of votes; it went far deeper than that. The classification of motives given by the Lebanese representative was one proof more that the adoption of an untenable position forced temporary agreement between delegations which should logically be disagreeing with each other.

37. No greater value was to be accorded to security than to freedom; the one was inconceivable without the other. The Israel representative's argument (368th meeting) that a government would find it harder to bind itself to guarantee a minimum living standard for its people than to enforce such articles of the draft covenant as those guaranteeing freedom from discrimination or the right of peoples to self-determination, was surprising. Recent events had unfortunately shown how difficult it was to respect the latter right.

38. Mr. ALBORNOZ (Ecuador) thought that the drafters of the covenant should follow other great historical instruments and evolve a simple and general document which would crystallize universal truths. It was essential to set down lofty principles and not to allow those principles to be vitiated on grounds of alleged expediency. Experience had shown that compromise on vital issues had always proved unsatisfactory, and it was to be feared that the adoption of two covenants would create such a compromise.

39. The distinction between two categories of rights was artificial, and gave rise to the possibility that one of the two proposed covenants would be regarded as being more important than the other. No convincing arguments had been raised to refute the intrinsic unity of human rights. The representatives who favoured two covenants asserted that that method would promote the effective implementation of both instruments; that view seemed to be unduly pessimistic. The adoption of a single covenant would leave the door open for future general acceptance of the instrument and to any necessary amendments and extensions. Some representatives had said that the number of rights enumerated in the existing draft covenant was inadequate. Nevertheless, the number could always be increased.

40. He would therefore vote for the joint draft resolution (A/C.3/L.182), which clearly stated the case for a single covenant.

41. Mr. BAROODY (Saudi Arabia), speaking on a point of order, drew attention to the fact the Press release concerning the preceding meeting consisted of a single sheet of paper and merely stated that seven representatives had spoken in favour of a single covenant and that three had spoken for two covenants. There was no indication of the speakers' arguments. The national Press of the representatives who had spoken for two covenants had given extensive coverage to the arguments put forward; the countries which favoured a single covenant, however, did not have such a highly developed Press, and therefore depended on the United Nations for the expression of their views. All the representatives in the Third Committee were speaking to the world on a highly important subject and the Secretariat, which had to serve all Member States on an equal footing, was not entitled to judge the relative merits of statements.

42. He had also observed that speakers in the Third Committee who read their statements were given greater space in the summary records than those who spoke from notes. In the current debate, all speakers were allocated the same amount of time for their statements and he thought that it would be only just for the same space to be given to all in the summary records. Moreover, most delegations were too busy to spend much time in submitting corrections.

43. The CHAIRMAN stated that the Saudi Arabian representative's views on the question of Press releases would be communicated to the Secretariat, which would give any necessary explanations. The Secretariat would also take note of his remarks concerning the summary records.

44. Mr. ZDANOWSKI (Poland) would support the joint draft resolution (A/C.3/L.182), which expressed the fundamental principle that the full and equitable application of civil and political rights had to be based on economic, social and cultural rights and confirmed the provision of General Assembly resolution 421 (V), section E, concerning the drafting of a single covenant.

45. The Polish delegation could not support the United Kingdom amendment (A/C.3/L.188) because the practical result of adopting it would be to complicate the work of the Commission on Human Rights. The Commission had already been informed of the views of governments and specialized agencies on the draft covenant and, moreover, had been unable to fulfil its task in 1951, owing to the pressure of work.

46. His delegation's main objection to the United Kingdom amendment (A/C.3/L.188) and to the joint amendment (A/C.3/L.185/Rev. 1) — which really constituted a separate draft resolution — was that the two documents proposed the drafting of two separate covenants. That principle had been recognized as incorrect, as was shown by the adoption of General Assembly resolution 421 (V). Nevertheless, certain representatives were trying to convince the Third Committee that the amendments represented an attempt to

reconcile the Committee's views, by stressing the fact that the two covenants could be drafted simultaneously and opened for signature at the same time. The purpose of that manoeuvre was to distract attention from the fundamental question of principle.

47. The Polish delegation would also vote against the French amendment (A/C.3/L.192/Rev. 2) to the joint amendment (A/C.3/L.185/Rev. 1), because it merely represented an attempt to render the joint amendment more acceptable, without altering the basic purpose of that text.

48. Mr. DELHAYE (Belgium) said that his delegation had frequently expressed its preference for two covenants. At the moment he wished to refer only to certain amendments to the draft resolution (A/C.3/L.182).

49. He thought that the Syrian amendment (A/C.3/L.219) merely introduced confusion into the draft resolution, which in itself was perfectly clear. The amendment implied that the adoption of two covenants would delay implementation; his delegation held the contrary view, and he would therefore vote against the amendment.

50. He would abstain from voting on the United Kingdom amendment (A/C.3/L.188), because the time limit for the submission of communications by governments and specialized agencies, which was set at 1 March 1952, was too short; and it would be difficult to extend the time limit, owing to the fact that the eighth session of the Commission on Human Rights was to open in April.

51. Mr. SEVILLA SACASA (Nicaragua) felt that if the Committee decided in favour of adopting two covenants — one dealing with civil and political rights and the other with economic, social and cultural rights — it would facilitate the procedure of signing and the later step of ratification. He said that human rights, in whose recognition, safeguarding and guarantee, all peoples and governments were interested, and which might well in his opinion have been dealt with in five separate covenants, had been grouped in two only. He thought therefore that the joint amendment (A/C.3/L.185/Rev. 1) was particularly apt. In conclusion, he said that the matter should be handled with caution and it should be remembered that it was not a question of a mere declaration but of covenants, which implied a more serious undertaking. He therefore shared the views of the representatives of the United States and Lebanon, whose arguments were eminently practical.

52. Mr. PAZHAWAK (Afghanistan) said that the question of human rights, which affected the population of the world, was highly important to world public opinion. Everyone was convinced that a covenant had to be drawn up; general agreement had been reached on the rights to be incorporated; the terms used to describe various categories of rights were fully understood; and certain articles of the covenant had already been drafted.

53. There were two principal schools of thought in the Third Committee: one group wished to unite the five

categories of rights into a single covenant, whereas the other wished to divide those categories among two covenants, to be drafted and opened for signature simultaneously. To the question which group of rights was more important, those who advocated two covenants replied that both groups were equally important; to the obvious question why that should not lead logically to the adoption of a single covenant, they replied that there was no reason why there should not be two covenants. Great stress was laid on the unity of purpose of all those who wished human rights to be implemented, but no serious arguments had been advanced against maintaining that unity by drafting a single covenant.

54. The Afghan delegation based its position in the matter on the indivisibility of human rights as a corollary of the unity of human personality. Human rights could be defined as the conditions of life without which no human being could reach the height of his potentialities. There was an erroneous tendency to assume that the needs of the whole world corresponded to the tenets of so-called modern civilization, to which the adjective "Western" was frequently applied. As the Saudi Arabian representative had stated at the previous meeting, however, the demands of the vast populations of under-developed countries would have to be fulfilled to avoid world-wide disaster.

55. History showed that the philosophy of human rights was built on examples: it was therefore essential to give full expression to human nature in order to provide a solid and realistic basis for world democracy. It was impossible to limit that expression to any single field owing to the multiple facets of human personality.

56. A fundamental right to which many representatives had referred was the right to life; in order to enjoy that right, everyone had to have the right to work and earn a living; in order to make any contribution to society, everyone had to have an education; in order to have the energy to work, everyone had to have food, shelter and clothing. It was also essential to provide for the rights which would render life something more than a mere satisfaction of physical requirements. That cycle served as an illustration of the fundamental interdependence of all rights.

57. If economic, social and cultural rights were not adequately protected by the covenant, man would be unable to accomplish his essential tasks and would be deprived of the qualities which made him a citizen. In those circumstances, it would be impossible for him to enjoy civil and political rights.

58. The Afghan delegation would vote for the joint draft resolution (A/C.3/L.182), which maintained the policy set forth in General Assembly resolution 421 (V) concerning the drafting of a single covenant. The existing world situation fully warranted the decision contained in that resolution and any reversal of it would have unfavourable consequences for the under-developed countries. The Yugoslav representative had rightly stated (365th and 393rd meetings) that any system of implementation should be an instrument to help under-developed countries and should not be turned into a kind of punitive expedition by more advanced countries to maintain their position in the world.

The meeting rose at 1 p. m.