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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 58

Draft international covenants on human rights
(A/2714, A/2686, chapter V, section I, E/2573)
(continued)

PROCEDURE FOR CONSIDERATION OF THE DRAFT COVE-
NANTS (continued)

1. Mr. PAZHWAQ (Afghanistan) considered that it was less important to decide on the time-table of meetings than on the substance of the Committee's deliberations. He had proposed formally that the covenant should be considered during the current session by the Third Committee and that the first reading should be begun forthwith. The Committee would be conducting its work in an orderly manner if it were to accept those proposals at once.

2. He asked the Egyptian representative for a further clarification of what he meant by a first reading in the form of a general debate. The covenants had been on the agenda of the United Nations for many years; it would be most undesirable to delay their completion any further, especially as they were in a form which could be regarded as final. If a general debate were held, it was doubtful whether a first reading could be completed at the current session. Moreover, the Commission on Human Rights had suggested in its report that the first reading should relate to the drafts in their present state (E/2573, para. 39). The Egyptian and French representatives, who had been among the authors of the Commission's observation, seemed to differ in their views on the procedure to be adopted. In his opinion, a first reading of the drafts in their present state should mean consideration article by article.

3. Mr. AZMI (Egypt) explained that he was in favour of having two readings, the first to begin immediately and to continue for some weeks and the second to continue for as long as was necessary during the tenth session. Some confusion might have arisen from the use of the term "general debate"; it might be better to refer to a "general discussion". Such a discussion might include both general reflections and reference to specific articles. Representatives would be free to use whatever methods they chose to clarify their governments' views. The only limitations to the discussion would be that of time and that there would be no decisions on specific points.

4. Mr. MATTHEW (India) thought it would be better to deal with the draft covenants at consecutive, rather than alternate, meetings.

5. It was essential to define the scope of the proposed general discussion clearly. The Committee had to make a definite step forward and agree that the general discussion or first reading should be concluded during the ninth session.

Mr. Núñez (Costa-Rica), Vice-President, took the Chair.

6. Mr. TUNCEL (Turkey) agreed with the view of the officers of the Commission on Human Rights that the two readings should be distinct and take place during two sessions. The problem was to define the scope of the first reading. The Commission's report referred (E/2573, para. 39) to the method of two readings used by the International Labour Conference. Under article 34, paragraph 4, of the Standing Orders of the Conference, unless the Governing Body had otherwise decided, a question placed on the agenda of the Conference should be regarded as having been referred to the Conference with a view to double discussion. With regard to the methods of the first phase of such discussion, article 39 of the Standing Orders provided that the basic documents should be reports of the International Labour Office, which contained the opinions of all States members of the ILO on the question at issue and were accordingly more complete than the draft covenants. The reports were submitted to a discussion by the Conference either in full sitting or in committee: the scope of the discussion was not specified. It should be noted that the first phase of the double discussion did not entail a reading, since no draft was prepared for the initial debate. The Conference at that stage merely decided whether the question should be the object of a convention and, on the basis of that decision, the International Labour Office prepared one or more texts, which were communicated to governments for comment. The fundamental difference between the positions of the Conference and of the Committee was that the Committee had a text before it. It was to be inferred, therefore, that the ILO system provided no solution for the Committee's procedural problem with regard to the first stage of the double discussion.

7. It was therefore essential to define the nature and scope of the first reading. Two solutions had been proposed. The first was to hold a general discussion, during which amendments might be submitted to specific articles, but no votes would be taken. The second solution was that a general discussion should be followed by a consideration of the covenants article by article. The two proposals did not seem to be irreconcilable. Before any consideration was undertaken, the object of the double discussion had to be defined. According to the recommendation in the Commission's

report, study and even negotiation should be undertaken between the two readings. The first reading should therefore give Governments an opportunity to clarify their positions on important questions. For that purpose, the questions in the covenants has to be defined; that might be done by drawing up a kind of questionnaire to canalize the general discussion. In the absence of such a questionnaire, the discussion might result in vague affirmations of attachment to human rights. Finally, the second phase of the double discussion should be organized. The United States representative had made the useful suggestion that the Secretary-General might be asked to report to Member States, taking the first stage of the discussion into account. That procedure took into account article 39, paragraph 6, of the Standing Orders of the International Labour Conference.

8. To sum up: in the first place, two readings should be held; secondly, the scope of the first reading should be defined; thirdly, a general discussion would be useful, provided that its scope was defined, possibly by means of a kind of questionnaire; fourthly, the Secretary-General should be asked to prepare a report on the basis of the discussion and submit it to the Governments of Member States for comment; and, finally, the Secretary-General should be invited to submit another report to the General Assembly on the replies received.

9. Mrs. TOMSIC (Yugoslavia) agreed that the draft covenants should be considered by the Committee at the current session, but did not think that there was time to examine the drafts article by article, especially as many controversial points remained to be settled. It was therefore unwise to interpret the Commission's observation in paragraph 39 of its report too literally. The Egyptian representative's suggestion that a general discussion should be held instead of a reading properly so-called was useful. Delegations would thus be enabled to give their views and make proposals on questions which were still outstanding, without voting on matters of substance; moreover, such a discussion could be completed during the current session.

10. The United States representative's suggestion that the Secretary-General should be asked to report on the discussion was also sound. When replies had been received from Governments of Member and non-Member States, the Secretary-General might also prepare the text of the drafts, with the appropriate comments and with recommendations for the General Assembly at its tenth session. It would be advisable to devote the whole of that session to the discussion of the draft covenants article by article.

11. She thought that it would be unwise to set a time limit for the general discussion and preferred the method of discussing the draft covenants at alternate meetings.

12. Mrs. TSALDARIS (Greece) wished, on behalf of her delegation to congratulate the Commission on Human Rights on the important work it had carried out under the distinguished chairmanship of the Egyptian representative.

13. The Greek delegation could agree with three of the points that had become clear from the debate. In the first place, it was the Third Committee's right and duty to consider the draft covenants immediately. Secondly, there should be two readings as proposed in paragraph 39 of the Commission's report (E/2573).

Thirdly, the comments of Governments, specialized agencies and non-governmental organizations should be taken into account, together with the results of the debate in the Third Committee, during the second and final reading at the tenth session of the General Assembly in 1955.

14. She fully understood the Iraqi and Yugoslav representatives' view that the time at the Committee's disposal would not allow it to deal with the question of reservations and with the rights of property, but thought that additional meetings could be held to discuss those points.

15. The United Kingdom representative had suggested that alternate meetings might be devoted to the discussion of the draft covenants, in order to facilitate the work of smaller delegations. She herself thought that such a procedure would, on the contrary, be more difficult and that it would be better to work on the same subject without interruption. She would, however, support the Committee's final decision on that matter and on the programme of meetings, the number of which should be increased.

16. Mr. HOOD (Australia) agreed with the Yugoslav representative that it was better to avoid an unduly rigid interpretation of the Commissions' observation. That text merely drew attention to the procedural problem involved, but did not oblige the Committee to take procedural decision. There was no final definition of the term "reading" that the Committee could follow; the analogy with ILO procedure was not close and should not necessarily be pursued. It was also undesirable to set a time limit for the discussion, since at the end, the Committee would be obliged to consider the next step to be taken. The best course was to begin the general discussion forthwith, without voting on the revision of any specific articles at that stage. When the discussion reached its natural conclusion, the Committee might determine the procedure to be followed at the tenth session.

17. Mr. GALVEZ (Argentina) thought there was general agreement, with regard to the desirability of following the suggestion that the draft covenants should be given two readings, at two consecutive sessions.

18. With regard to the procedure to be followed, three possibilities had been suggested: first, that there should be a general debate, with a wide exchange of views; secondly, that the draft covenants should be given careful study article by article; and, thirdly, that the general debate should include amendments to the articles, which the Secretariat could transmit to Governments in preparation for the discussion at the tenth session of the General Assembly. He agreed that the Committee could make recommendations and submit amendments at the end of the general debate, which, as the Saudi Arabian representative had suggested, should be continuous.

19. Mr. MOROZOV (Union of Soviet Socialist Republics) agreed that it was advisable to begin the debate on the draft covenants immediately and to put an end as soon as possible to the procedural discussion on which two meetings had already been wasted. The Soviet delegation was ready to participate in a general debate and also, if time allowed, in a discussion of the two draft covenants article by article. There was general agreement, in which he concurred, that a general discussion (which could be called a first reading) should begin as early as possible and that, after that

discussion, the draft covenants should be considered article by article. A debate on the question of the time when an article-by-article discussion should take place would be premature at the moment. There might be time to begin such a discussion at the end of the general debate, or perhaps at the end of the session if the Committee completed the rest of its agenda in time.

20. He thought that the delegations which were asking for two readings of the draft covenants article by article were not bearing in mind the fact that the Commission on Human Rights had prepared the drafts carefully. The two draft covenants had already been given two readings in the Commission on Human Rights, on which eighteen Member States were represented. The membership had changed several times during the course of the discussion and about thirty Governments had in fact had the opportunity of clarifying their fundamental position. Furthermore, the basic concepts of the covenants were not new to the Third Committee: they were embodied in the Universal Declaration of Human Rights. The draft covenants merely contained complementary proposals, to fill in gaps in the Declaration.

21. There should be one single discussion, article by article, and the Committee should not accept now any formal precedent, such as the one suggested in paragraph 39 of the report of the Commission on Human Rights. If the draft conventions were found to be satisfactory on first reading it might not be necessary to have a second one. On the other hand, more than two readings might be necessary. In any case, it was not possible to take an immediate decision on that point.

22. The suggestion of discussing the draft covenants and another item on alternate days was not acceptable, as it would impose too great a strain on some delegations and raise difficulties for others.

23. Mr. PAZHWAQ (Afghanistan) pointed out that as his country was not represented on any other organ of the United Nations, the Third Committee was the only place in which it could make its views known. The Egyptian representative had made a distinction between a general debate and a general discussion. He could not see how they differed from each other.

24. The draft covenants were not new documents; they had been before various United Nations bodies for several years and during that time they had been the subject of general debates both on substance and on form. He could not understand why a second reading was considered necessary, but he was willing to follow the view of the majority. The suggestion in paragraph 39 of the report of the Commission on Human Rights was not binding on the Third Committee.

25. The USSR representative, among others, had been concerned at the delay in opening the debate on the substance of the item under consideration, but the possibility of delaying the work on the draft covenants by adopting an unsuitable procedure was a subject of far greater concern. If a general discussion were clarified upon at the current stage, questions of principle which had already been decided in the General Assembly might be raised again. There was also a risk that the debate would continue far beyond the current session without any decision being taken. The Australian representative had asked what constituted a reading in the case in point: he, himself, asked

whether a general debate would be considered a reading.

26. He could not agree with the USSR representative that a first reading would be useful in clarifying the position of Governments, which was already abundantly clear from previous discussions. In any case, the Committee should not forget that it was not always the point of view of Governments that was important: the covenants dealt with the rights of individuals, and, if they were not considered from a humanitarian rather than a political point of view, the purpose of the discussion would be lost.

27. The Committee should begin with a consideration of the draft covenants article by article: any other solution would be either a repetition or a step backwards.

28. Mr. BAROODY (Saudi Arabia), speaking on a point of order, said that it had been his understanding that the Committee had agreed to finish the procedural discussion at the current meeting. Accordingly, as soon as the speakers on the Chairman's list had had their say, the Committee should by vote decide to embark upon the substance at the following meeting.

29. Mr. AZKOUI (Lebanon) said that, unlike the Afghan delegation, his delegation had been a member of all the United Nations organs concerned with human rights since their inception and accordingly could view the problem in the light of its experience. A problem there certainly was. Many delegations favoured the idea of holding a general debate—which was what a first reading, whatever formal name it was given, would entail—not based upon specific articles, whereas others believed that the draft covenants should be taken article by article, that the articles should be discussed and scrutinized and that amendments might be submitted, although not voted on. The problem was how to reconcile those two trends without taking an arbitrary decision by a vote. The simplest and most effective way of doing so would be to bear in mind what would be required at the second reading, to be held at the Assembly's tenth session. All agreed that the Committee would then be discussing and adopting the draft articles and taking decisions on any amendments submitted. In order to do so, the delegations would require clear and detailed instructions from their Governments. The Governments would in turn require the texts of the draft covenants, as embodied in the report of the Commission on Human Rights, the comments of at least Member States, some idea of what amendments might be submitted and some foreknowledge of the way in which draft articles might be altered in the course of the discussion. At its current session the Third Committee was bound to do that preparatory work. It was hard to see how a general debate—the term "general reading" was, of course, self-contradictory—would help that preparation, as it would range extremely far and would lack precision. But a reading of the specific draft articles, including their review and the submission of general views on them and even amendments to them, would exactly serve the purpose. The only point on which he differed with the Afghan representative was that he believed that a reading article by article might take too long, and that a first reading section by section would be preferable. If any delegations had general views to express on any particular section, they could do so. It was true that the normal procedure was to hold a general debate before considering

a subject in detail and one would certainly have been necessary, had the draft covenants been up for discussion for the first time. But the General Assembly had already made its decisions, after thorough debate, on the question of two covenants or one, on what articles were to be included and on certain of the more important articles. All that remained was a matter of drafting, of including any additional and deleting any undesirable articles. There was thus no need for a general debate; general remarks could be made in connexion with each section.

30. Mr. CHENG (China) observed that a decision on future procedure might help to clear up the question of orderly procedure at the current session. To agree on what was to be done at the current session would not be sufficient. The Chinese delegation would have preferred the convening of a plenipotentiary conference to adopt the draft articles. That would have solved all the problems confronting the Committee.

31. The Commission on Human Rights had never discussed paragraph 39 of its report, which had been embodied in a working paper submitted by the Commission's officers late in the session and had been adopted in conjunction with the report as a whole. The Third Committee had embarked on a discussion of whether there should be one, two or several readings and of what was meant by a first reading. If it was agreed to undertake a first reading at the current session, that would entail general observations on the draft covenants, even on details of style, wording and arrangement; there would be comments on specific articles and even amendments, but no voting on them. If the Committee agreed to take the draft covenants article by article, it still could not avoid a general discussion. The Uruguayan delegation had submitted seventeen draft articles concerning an attorney-general for human rights (E/2573, annex III). The Commission on Human Rights had never discussed the proposal in detail. The Third Committee would inevitably become involved in a general debate, because it had to decide in principle whether or not there should be an attorney-general for human rights before it went into the details. If the discussion began with general observations only, it might be repeated at the tenth session in connexion with the consideration of the draft covenants article by article. That had to be avoided. It should be clearly understood that, if a general debate was held at the ninth session, a repetition at the tenth session would not be permissible. As a general debate was inevitable, the Committee might well embark on and conclude it as soon as possible.

32. It was unlikely that the Third Committee would be able to conclude its work at the tenth session. There were fifty-four draft articles in one covenant, twenty-nine in the other, there were the seventeen dealing with the attorney-general for human rights and certainly there would be proposals in connexion with the right of property, reservations, the federal State clause and petitions. More than one hundred draft articles could not be dealt with in some sixty to seventy meetings. The alternative would be to continue at the eleventh session, entailing a further year's delay.

33. There was the further question of the participation of non-Member States. The draft covenants could be adopted and left open to accession by non-Member States, as had been done with some conventions. But

that was hardly a suitable procedure for covenants dealing with human rights, in the drafting of which non-Member States should be able to take part.

34. A plenipotentiary conference would solve all those problems; there would be no time limit; the plenipotentiaries would be able to take responsible decisions; the conference could set up any committees or commissions it required; and non-Member States could be invited.

35. The Chinese delegation did not intend to enter into the substance of the draft articles at the current session or to take part in the general debate; it would do so when the draft articles were discussed for final decision.

36. Mr. PAZHAWAK (Afghanistan) asked whether the Saudi Arabian representative was pressing his proposal. It had been shown to be impractical, since fresh ideas had been brought forward by the Lebanese and Chinese representatives. He himself might be able to reconsider his own proposals in the light of those suggestions.

37. Mr. RODRIGUEZ FABREGAT (Uruguay) supported the Afghan representative's view. He failed to see why delegations which had intervened frequently should appear to be trying to prevent other delegations from speaking at all on a subject of such importance. A hasty decision at the last minute would be most undesirable.

38. Mr. BAROODY (Saudi Arabia) said that he had not intended to prevent any delegation from speaking, but the procedural discussion should be ended, since a large measure of agreement had been reached that a general debate should be held. His proposal would preclude delegations from reverting to the ideas put forward by the Afghan and other representatives. He would amend his proposal slightly; the Committee should embark on the substance at the next meeting; all delegations would be free to submit proposals and amendments; the decision on the holding of a first reading should be deferred until the end of the general debate.

39. Mr. PAZHAWAK (Afghanistan) pointed out that there was no proposal for a general debate before the Committee. The Egyptian representative had even apologized for the use of that term. The Afghan proposals, however, were before the Committee and were entirely inconsistent with the holding of a general debate. What he had proposed had, in brief, been: first, that the draft covenants should be discussed at the current session; secondly, that the first reading should begin immediately; and, thirdly, that the first reading should be taken article by article. Those proposals would take precedence even if a formal proposal was now made that a general debate should be held. The Saudi Arabian proposal that the Committee should embark on the substance could not be entertained until the Committee knew what the nature of those deliberations would be. It was engaged in trying to discover that.

40. The CHAIRMAN observed that the achievement of general agreement appeared to be unlikely at that stage. He would adjourn the meeting, in the hope that the Committee would be able to embark on the substance of the question at the next meeting.

The meeting rose at 1.20 p.m.