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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, A/C.3/574, A/C.3/L.410/Rev.1, A/C.3/L.412, A/C.3/L.413, A/C.3/L.414) (*continued*)

FIRST READING (SECOND PART) (*continued*)

1. Mrs. CISELET (Belgium) recalled that her delegation had already on various occasions expressed its views on the draft covenants on human rights (E/2573, annex I). There were, however, some questions concerning which the Belgian Government reserved the right to deal at a later stage, in greater detail, in the form of observations, amendments or even new texts. Those questions were both important and complex and could not be regarded as finally disposed of. They concerned, for example, the insertion in the covenant on civil and political rights of provisions concerning reservations, which were necessary in principle but gave rise to uncertainty as to their scope; the possible appointment of a high commissioner for human rights; the right of property; and the right of individual petition, of which Belgium approved in principle but which it regarded as difficult to apply. The Belgian Government would be quite candid in its comments, which would be designed solely to make the covenants as flexible as possible and give them a form in which they could be accepted in all honesty by the great majority of Member States.

2. For the moment, she would confine herself to a few remarks on article 22, paragraph 4, of the draft covenant on civil and political rights. The first sentence of that paragraph was so vague as to be meaningless. To say that "the legislation of the States . . . shall be directed towards equality of rights and responsibilities for the spouses" meant nothing, because there was no legislation, however backward, which was not "directed" towards equality of rights of spouses. The important thing was to state clearly that the equality of spouses was an objective to be attained as quickly as possible. In Belgium, women had the same political and economic rights as men, and the only inequality which still existed was in respect of the exercise of civil rights during marriage. That inequality would soon disappear, since the Government was currently undertaking a revision of the civil code under which the full legal capacity of

married women and their right to dispose of their own property would be established. In the draft covenant, it might be possible to follow the recommendation of the Commission on the Status of Women¹ that the provisions of paragraph 4 should be replaced by those of article 16 of the Universal Declaration of Human Rights. The Belgian delegation supported that suggestion but recognized that the wording of article 16 was perhaps too absolute for some countries. It accordingly proposed a more flexible text:

"The legislations of the States Parties to this Covenant shall establish, in the reasonably near future, equality of rights and responsibilities for the spouses, during marriage and at its dissolution."

That wording, which should be satisfactory to the Commission on the Status of Women, had the merit of specifying the objective to be attained. With regard to the second sentence of article 22, paragraph 4, the Belgian delegation proposed that the words "in the last-mentioned case" should be deleted. The case referred to was that of the dissolution of marriage. As, however, some parents did not always fulfil their duties towards their children even during marriage, the law should lay down special measures for the protection of children in all circumstances and not only at the dissolution of marriage.

Mr. Núñez (Costa Rica) took the Chair.

PROCEDURAL PROPOSAL SUBMITTED BY COSTA RICA (A/C.3/L.410/Rev.1) (*continued*)

3. The CHAIRMAN asked the Committee to resume the examination of the Costa Rican draft resolution. The text of the draft resolution had been revised (A/C.3/L.410/Rev.1) so that the Committee no longer had before it the amendments proposed by Afghanistan (A/C.3/L.411).

4. Mr. CHENG (China) raised two fundamental questions which he would try to answer. The first was to what extent the Committee wished to hasten the adoption of the draft covenants; and the second, to what extent it could do so.

5. The first question was a very subjective one; there were divergent opinions on that point, but the majority obviously wished to see the covenants adopted as soon as possible.

6. The second question could be answered only if certain ineluctable factors were borne in mind. The draft covenant on economic, social and cultural rights (E/2573, annex I) had 29 articles; the draft covenant on civil and political rights (E/2573, annex I) had 54; and the proposal for the establishment of an Office of the United Nations High Commissioner for Human Rights (E/2573, annex III) had 17. As the general debate had revealed profound differences of opinion

¹ See *Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 6, annex 2, draft resolution G.*

regarding some of the most important rights, it was hardly to be hoped, even taking a very optimistic view, that more than one article could be adopted per meeting. If, at the tenth session of the General Assembly, the Committee were to meet twelve times a week, it might be able to hold 96 to 120 meetings during the eight to ten weeks of the session. Experience showed, however, that the number of meetings during a session ranged from 60 to 70. There were therefore good reasons for thinking that the hundred articles could not be adopted before the middle or the end of the eleventh session in 1956. As some debatable matters, such as reservations, the right of petition and the right of peoples to self-determination, might give rise to prolonged discussions, it seemed reasonable to suppose that the covenants could not be adopted before 1957. Those forecasts were in no way pessimistic, for it should be remembered that the Commission on Human Rights, which was composed of only eighteen members, had required six years to prepare the draft covenants under discussion.

7. World public opinion should not therefore be misled by statements to the effect that the draft covenants could be adopted in 1955; it was better to admit frankly that they would not be adopted for another three to five years. Even if it was agreed to delete certain controversial articles, the twenty ratifications required for the instruments to come into force would probably not be deposited before 1960.

8. If therefore the Committee really wished to hasten the adoption of the draft covenants, it should provide for a method of examination different from that proposed in the Costa Rican draft resolution. Several solutions were possible. The quickest would no doubt be to convene a conference of plenipotentiaries to meet during the spring of 1955, which would set up the number of committees required for it to complete its work in a few months. It might also be possible to consider the establishment, during the tenth session of the General Assembly, of an *ad hoc* committee to examine one of the covenants while the Third Committee was examining the other. That solution, however, would probably not make it possible to adopt both covenants during the tenth session. Lastly, it might be possible to set up an interim committee, which would meet between the regular sessions of the General Assembly.

9. Turning to the Costa Rican draft resolution, he asked whether the word "Governments" referred solely to Member States, for he personally would prefer non-Member States to be consulted as well. In addition, he felt that it would be advisable to invite the specialized agencies and the non-governmental organizations to submit their observations on the draft covenants. Lastly, he suggested that the words "with a view to their adoption at that session, if possible," at the end of paragraph 3 of the operative part, should be deleted, for he thought he had made it clear that the draft covenants could not by any means be adopted at the tenth session of the General Assembly.

10. Mr. PAZHWAQ (Afghanistan) said that as he understood it, the Chinese representative had expressed certain views but had not submitted a formal proposal. Any proposal for the holding of a conference of plenipotentiaries or for the establishment of an *ad hoc* committee would be inadmissible, because the Third Committee had already adopted the proposal that it should itself examine the draft covenants (A/C.3/L.409).

11. In his opinion it would be unwise to delete the final words in operative paragraph 3 of the draft resolu-

tion, because the words "if possible" clearly showed that the adoption of the draft covenants during the tenth session was not a certainty. The draft resolution contained no consideration or provision which, in the words of the Chinese representative, might mislead world public opinion. The world would, on the contrary, be keenly disappointed if the Committee did not adopt a text such as that under consideration.

12. He recalled that it had been on his proposal that the Committee had decided (577th meeting) to vote on the Costa Rican draft resolution after the second part of the first reading of the draft covenants. In view of the turn taken by the debate, he would be pleased if that decision could be annulled and the draft resolution put to the vote immediately. Such an action would probably facilitate the Committee's work.

13. The CHAIRMAN, speaking as representative of COSTA RICA, said that the word "Governments" had been used purposely in the draft resolution so as to make it possible to consult non-Member States in the same way as the States Members of the United Nations.

14. He readily accepted the Chinese representative's suggestion that the non-governmental organizations should be asked to submit their views on the draft covenants. He was accordingly prepared to amend the fourth paragraph of the preamble and operative paragraphs 1 and 2 of the draft resolution, but, for the same reasons as those given by the representative of Afghanistan, he did not think that it would be advisable to delete the last two words of operative paragraph 3.

15. He emphasized once again that the draft resolution was not his own work but the result of unofficial discussions between various delegations, particularly those of Latin America, and that its sole object was to avoid a procedural debate. It was for that reason that he accepted all suggestions which seemed likely to meet with general approval.

16. Mr. CHENG (China) was pleased to note that the Costa Rican representative shared his opinion on the advisability of asking the non-governmental organizations to submit their observations. The same principle obviously applied also to the specialized agencies.

17. The Chinese delegation therefore suggested that the draft resolution should be amended as follows: first, in the second paragraph of the preamble, after the word "Governments" there should be added the words ", the specialized agencies and non-governmental organizations", and after the words "if they so desire," there should be added the words "and, as appropriate,". That should be done in order to allow for the differences between the Governments, on the one hand, and the specialized agencies and non-governmental organizations, on the other. Secondly, in paragraph 1 of the operative part, after the word "Invites", the existing text should become sub-paragraph (a), and a sub-paragraph (b) should be added, reading as follows:

"Specialized agencies and non-governmental organizations to communicate to the Secretary-General, within six months after the end of the present session, any observations with regard to the draft international covenants on human rights which they consider desirable."

It was, after all, desirable that the specialized agencies and non-governmental organizations should submit observations only and not amendments or additions.

18. Mr. RODRIGUEZ FABREGAT (Uruguay) thought that the words "Invites Governments", in para-

graph 1 of the operative part, should be interpreted as broadly as possible. When the Uruguayan delegation had proposed two separate readings at two consecutive sessions in connexion with the examination of the draft covenants, its object had been to enable the Committee to obtain the maximum co-operation from Governments, organizations, cultural institutions, trade unions and other associations and, in short, from all groups representing world public opinion. The observations of all concerned would be useful for the final drafting of the covenants, and the formula employed by the Costa Rican representative seemed to be designed for that purpose. He wondered, however, whether an explicit reference to the specialized agencies and non-governmental organizations would not result in restricting the scope of the draft resolution. Any enumeration involved a risk of restriction, and the impression might be given that organizations not mentioned were not to be consulted. It was preferable therefore to retain the original text of operative paragraph 1 on the understanding that it was to be interpreted as he had just indicated.

19. With regard to paragraph 2 of the operative part, he considered that the General Assembly should continue to concern itself directly with the drafting of the covenants. The Secretariat had already done much work; other organs of the United Nations had assisted in the common endeavour; and henceforth the matter was in the hands of the General Assembly, which could not relinquish it. It was logical that the Third Committee should itself carry out the compilation provided for between the two sessions. It might, for example, set up a sub-committee to act in that regard on its behalf with the assistance of the Secretariat. It would be useful if the representatives who had taken part in the discussion would also assist in analysing the communications received and thus prepare for the next session. The Committee would then, in 1955, be in a position to examine the substance of the draft covenants without wasting time on preliminary discussions. The Uruguayan delegation wished to draw the Committee's attention to those two points but was not for the moment submitting any formal proposal.

20. Mr. PAZHWAQ (Afghanistan) thought that, at the preceding meeting, the Costa Rican representative had accepted the Philippine representative's suggestion that the term "high priority" should be used in the English text of paragraph 3 of the operative part. The English text of document A/C.3/L.410/Rev.1, however, did not contain the word "high".

21. He suggested that the words "including new articles, if any" should be inserted after the words "article by article" in operative paragraph 3, to ensure that the Committee should reconsider any new draft articles that Governments might submit.

22. He thought that the Chinese representative's amendments would improve the draft resolution; all interested organizations should be allowed to give their views. He therefore supported those amendments but proposed two sub-amendments: first, a reference to non-Member States should be inserted in operative paragraph 1 (a), and secondly, the words "including such non-governmental organizations in Non-Self-Governing Territories" should be added after the words "non-governmental organizations" in paragraph 1 (b).

23. The CHAIRMAN, speaking as representative of COSTA RICA, said he was attracted by the Uruguayan suggestion that perhaps a sub-committee of the Third Committee should be formed to carry out the work

which was to be done between the two sessions. He invited comments from delegations.

24. The word "priority" used in operative paragraph 3 of the English text of document A/C.3/L.410/Rev.1 did not exactly neglect the meaning of the Spanish *preferentemente*. The Costa Rican delegation had issued a corrigendum (A/C.3/L.410/Rev.1/Corr.2) and hoped that it would satisfy the representatives of the Philippines and Afghanistan.

25. The representatives of China, Uruguay and Afghanistan had said that world public opinion should be given an opportunity to express its views and he himself had expressed the same idea at the Committee's 578th meeting. Accordingly, he had said that he would like to add one new paragraph to the preamble and a new paragraph to the operative part. He noted with satisfaction that at least three delegations had supported that idea and he would amend his draft resolution accordingly. He also saw no objection to the Afghan representative's suggestion that the non-governmental organizations of Non-Self-Governing Territories should be mentioned expressly in paragraph 1 of the operative part.

26. Mr. JUVIGNY (France) thought that, when consultation with non-governmental organizations was mentioned in a resolution, the Secretary-General should consult only with non-governmental organizations having consultative status.

27. Mr. HUMPHREY (Secretariat) said that it was the practice of the United Nations in such cases to specify that the non-governmental organizations to be consulted were those to which the Economic and Social Council had granted consultative status. Juridical and constitutional difficulties would arise if the Secretariat were asked to approach other non-governmental organizations.

28. Mr. JUVIGNY (France) said that, that being the case, he could see no point in the Afghan suggestion. If the text proposed by China were accepted, the Secretary-General would, as usual, consult all the non-governmental organizations with consultative status which were on the Secretariat's list; the reference to Non-Self-Governing Territories seemed to be unnecessary and out of place. Apart from the juridical and constitutional difficulties mentioned by the representative of the Secretariat, it would be physically very hard to attempt to consult all existing non-governmental organizations. Moreover, non-governmental organizations had various means of making their views known when they wished to do so. Vague and dangerous terminology should be avoided. The proposed text would also involve other modifications of the draft resolution; whenever the word "Governments" was used it would be only logical to add "including those responsible for Non-Self-Governing Territories" and that phrase would become a kind of leitmotiv of the text.

29. The Afghan suggestion betrayed some mistrust of the administering Powers. The French delegation would certainly not evince mistrust of any other country nor would it propose any such additions as, for example, "including non-governmental organizations in the territory of Afghanistan". The Third Committee's work should be conducted in an atmosphere of co-operation, and not of suspicion.

30. Mr. CHENG (China) observed that, in referring to non-governmental organizations, he had meant organizations having consultative status, in accordance with the meaning usually attached to that expression.

31. It was not the usual practice to use the word "Governments" in United Nations resolutions; that word, which was used in various paragraphs of the draft, should be replaced by the words "Member and non-Member States". That amendment would lead to the deletion of the words "of other Governments" in the fourth paragraph of the preamble. The last phrase of that paragraph, beginning with the words "so that it might be able . . ." should also be deleted. Non-Member States could not revise their attitudes, because they would not officially have taken any attitude. In so far as Member States were concerned, the phrase seemed to invite them expressly to revise their attitudes, whereas operative paragraph 1 implicitly acknowledged their right to propose amendments, which seemed to be quite enough.

32. He hoped that the text of the draft resolution, amended as suggested, would be circulated at the beginning of the next meeting.

33. Mr. PAZHAWAK (Afghanistan) said that he had been sure that his suggestion would irritate the French representative; it was obvious that he had not been mistaken. He would be fully prepared to accept the French representative's suggestion to allude to the Government of Afghanistan in the Costa Rican draft resolution, provided that the Territories under French Administration were also mentioned.

34. The French representative had used the word "dictate". The Secretary-General could not "instruct" anyone but at most could issue invitations.

35. In conclusion, he asked the representative of the Secretary-General whether it would be possible to extend the Secretary-General's invitation to the non-governmental organizations of Non-Self-Governing Territories.

36. Mr. JUVIGNY (France) pointed out that there had been a mistake in the English interpretation: he had never used the word "dictate". He had simply wished to point to the difficulties which would arise if a vague formula was used with regard to consultations with all the various organizations or societies not granted consultative status by the Economic and Social Council. The Secretary-General would find himself in an awkward position if he was not told exactly which organizations should be approached. Moreover, if he communicated with all societies indiscriminately he would receive such a mass of documentation that he would be unable to analyse it within the appointed time. The French delegation did not object to non-governmental organizations in Non-Self-Governing Territories being consulted, but merely wanted the Secretary-General to be told exactly what organizations should be approached; and he meant specifically non-governmental organizations granted consultative status by the Economic and Social Council. In any event, some of those organizations were confederations of societies having their head offices, or else branch offices, in the Non-Self-Governing Territories; that was true, for example, of the leading trade-union confederations granted consultative status by the Economic and Social Council. From the legal point of view, therefore, there seemed to be no reason why a clause referring specifically to non-governmental organizations in Non-Self-Governing Territories should be included in the draft resolution.

37. Mr. HUMPHREY (Secretariat) said, in reply to the representative of Afghanistan, that if the Committee adopted the Chinese amendment, the Secretary-General would certainly not fail to communicate with all the

non-governmental organizations granted consultative status by the Economic and Social Council, including those in Non-Self-Governing Territories. Only the case of non-governmental organizations not having such status would give rise to difficulty. He referred to Article 71 of the Charter, in particular its last sentence, as being relevant. Two questions arose: first, whether the Secretary-General could approach non-governmental organizations to which the Economic and Social Council had not granted consultative status; and secondly, whether he could approach national organizations without the consent of the Member State concerned. In the case of General Assembly resolution 635 (VII), the list of non-governmental organizations consulted by the Secretary-General had been drawn up with the consent of the Governments concerned.

38. It would be best if the Committee authorized him to make a fuller statement at the next meeting.

It was so decided.

39. Mr. HOOD (Australia) felt that the proposal of Afghanistan concerning non-governmental organizations in Non-Self-Governing Territories should be considered with great care, in the light of the explanations given by the Secretary-General's representative and of the French representative's remarks. In any event, the proposal should be submitted in the form of a written amendment. The Secretary-General had already drawn the attention of the Governments of Member and non-Member States to the draft covenants, in accordance with paragraph 3 of Economic and Social Council resolution 545 B I (XVIII). That resolution had not mentioned non-governmental organizations because at an early stage in its proceedings the Commission on Human Rights had already considered their views on the draft covenants. It was now for Governments alone to consider, comment upon and adopt the draft covenants. Furthermore, paragraph 1 of the Costa Rican draft resolution invited Governments to communicate their observations within six months after the end of the ninth session of the General Assembly. They would not be able to do that if they first had to digest a further mass of documentation from non-governmental organizations. The stage had been reached at which the draft covenants should be considered by Governments, and it was no longer necessary to consult the non-governmental organizations, which had already expressed their views on the draft covenants.

40. Mr. RODRIGUEZ FABREGAT (Uruguay) supported the proposal of Afghanistan. The fact that it had caused controversy showed that it had aroused a great deal of interest and was worthy of consideration. The Committee should beware of the regrettable tendency to overcome obstacles by sacrificing principles, in other words to secure a unanimous vote at the risk of disappointing world opinion.

41. The Costa Rican representative should take account, in the next revised version of his draft resolution, of the Uruguayan delegation's suggestion to establish a subsidiary body to prepare the compilation mentioned in operative paragraph 2 of the Costa Rican draft resolution. He reserved the right to speak on the point again at the next meeting.

42. Mrs. AFNAN (Iraq), while realizing the importance to be attached to world opinion, doubted whether the non-governmental organizations were really reliable spokesmen for that opinion, as they all represented some special small group. Moreover, their views had already been taken into account, and her own and

other delegations would not have time to study further communications from non-governmental organizations granted consultative status by the Economic and Social Council, not to mention the others.

43. At the tenth session of the General Assembly, the Third Committee would have to consider more than one hundred articles, many of them controversial. It could not possibly consider, in addition, communications submitted by non-governmental organizations. They had already been consulted and it was not necessary to consult them again. The stage had been reached at which only comments from Governments should be entertained. Like the Chinese representative, she was convinced that the Committee would be unable to adopt the draft covenants for a very long time to come, and that it would certainly be unable to do so either at the tenth or at the

eleventh session. Nevertheless, she was prepared to support the Lebanese amendment to the end of operative paragraph 3 of the Costa Rican draft resolution.

44. The CHAIRMAN, speaking as representative of COSTA RICA, pointed out to the representative of Uruguay that he had never abandoned his principles; he merely took account of constructive suggestions by the various delegations in a conciliatory spirit.

45. Mr. RODRIGUEZ FABREGAT (Uruguay) wished to explain that his remarks had been in no way intended to apply to the Costa Rican representative.

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

It was so agreed.

The meeting rose at 1 p.m.