



C O N T E N T S

	<i>Page</i>
Report of the Economic and Social Council (chapters IV and V) (<i>continued</i>).....	213

Chairman: Mr. G. F. DAVIDSON (Canada).

Report of the Economic and Social Council (chapters IV and V) (A/2430, E/2447, A/C.3/L.366, A/C.3/L.367 and Add.1, A/C.3/L.368, A/C.3/L.369, A/C.3/L.371, A/C.3/L.372, A/C.3/L.374, A/C.3/L.389) (*continued*)

[Item 12]*

HUMAN RIGHTS (*continued*)

DRAFT RESOLUTIONS SUBMITTED BY EGYPT (A/C.3/L.366) AND AUSTRALIA (A/C.3/L.374) (*continued*) AND PROCEDURAL DRAFT RESOLUTION SUBMITTED BY SAUDI ARABIA (A/C.3/L.389)

Federal State clause (continued)

1. The CHAIRMAN, referring to the question of including a federal clause in the draft covenants on human rights, recalled that the Committee had before it an Egyptian draft resolution (A/C.3/L.366), which had been amended by Afghanistan (A/C.3/L.387) and Guatemala (A/C.3/L.388) respectively, and a draft resolution submitted by Australia (A/C.3/L.374). After the debate at the preceding meeting, the Saudi Arabian representative had submitted a new draft resolution dealing with procedure (A/C.3/L.389). The Chairman thought he reflected the wishes of the Committee in stating that it wanted to take a decision first on the last-mentioned text. If there were no objections, he would put it to the vote first.
2. Mr. SAKSIN (Union of Soviet Socialist Republics) stated that he had some reservations regarding the draft resolution on which the vote was to be taken and would rather the Saudi Arabian representative presented it to the Committee first.
3. Mr. BAROODY (Saudi Arabia) said that he had hoped to save the Committee time by refraining from introducing a text which in no way affected the substance of the question and which merely reflected the compromise reached at the previous meeting as a result of the debate.
4. The two draft resolutions originally submitted (A/C.3/L.366 and A/C.3/L.374) were mutually exclusive, for the Egyptian proposal would have the Com-

mittee decide not to include provisions relating to federal States in the draft covenants while under the Australian draft, the Commission on Human Rights would continue to study a federal State article. At the previous meetings, opinion had been very much divided on the two texts and the amendments submitted by Afghanistan and Guatemala had not altered the situation. Finally, the representatives of Egypt and Australia had accepted a compromise solution whereby all draft resolutions and amendments on the federal clause, together with the relevant records of the Third Committee, would be transmitted to the Commission on Human Rights. For their part, the representatives of Afghanistan and Guatemala had not rejected the idea of a compromise. That did not mean that one or more delegations had changed their position on the substance of the question, but merely that the Third Committee would defer its decision until the Commission on Human Rights had been able to study the problem in greater detail, taking into account the documents which dealt with it. That was a very reasonable solution because, if the Committee were to press for a decision immediately, it would be impossible to reach a compromise, with the two opposing sides maintaining their positions, and that situation might jeopardize the final adoption of the draft covenants.

5. For those reasons, he had submitted his draft resolution. Paragraph 2 of the operative part was a kind of additional paragraph asking the Secretary-General to take the necessary steps to ensure that the members of the Commission on Human Rights received the above-mentioned documents not less than two weeks before the opening of the Commission's tenth session, so that they would have time to study them and consult their governments.

6. Mr. SAKSIN (Union of Soviet Socialist Republics) thanked the Saudi Arabian representative for his useful explanation.

7. Nevertheless, it had been his own impression that, after the lengthy debate which had taken place, the members of the Committee had agreed to recognize that it was better not to take any decision at all and to transmit all the relevant documents to the Commission on Human Rights, and that there was no need to take a vote. He well remembered having asked the Egyptian representative for clarification on that point and that the latter had stated that such was the proposed procedure. It would, moreover, be perfectly logical, as no delegation had objected to the suggestion that all the relevant texts should be referred back to the Commission on Human Rights and that, in the circumstances, there was absolutely no need for a vote. The Saudi Arabian draft resolution was consequently unnecessary.

8. Furthermore, if the Committee should adopt it, it would necessarily come before the General Assembly in plenary meeting, and there it might seem curious that the Third Committee should confine itself to taking

* Indicates the item number on the agenda of the General Assembly.

a strictly procedural decision on a matter as important as the federal clause. He would therefore find it difficult to support the draft resolution.

9. In addition, after debating all the questions arising from chapters IV and V of the Economic and Social Council's report (A/2430), the Third Committee would have to adopt a general decision, if only by taking note of those chapters. That would be the moment to refer to the fact that the Committee had considered it advisable to refer the draft resolutions, amendments and records relating to the federal clause back to the Commission on Human Rights.

10. In conclusion, he asked the Saudi Arabian representative to withdraw his draft resolution and to agree to ask the Rapporteur of the Third Committee to state in his report that the Committee had unanimously found it advisable not to take any decision on the substance and to transmit all the draft resolutions, amendments and records relating to the question to the Commission on Human Rights.

11. The CHAIRMAN, commenting on the USSR representative's remarks, noted that, when the Egyptian representative had made his proposal orally at the preceding meeting, he himself had reminded the Committee of the necessity for a text on the point so that the Secretariat could be clearly informed of the decision taken. He had added, however, that if the Egyptian representative submitted a second draft resolution on the same question, the Committee would find itself in certain procedural difficulties. It was then that the Saudi Arabian representative had agreed to assume sponsorship of the Egyptian proposal. In any event, the Committee had taken no formal decision on the Egyptian representative's oral suggestion and had, in one way or another, to express its wishes clearly so as to enable the Secretariat to take the necessary steps.

12. Mr. ENCINAS (Peru) felt that there were undoubtedly some arguments in favour of the adoption of the Saudi Arabian draft resolution, but that the USSR representative's line of thought was none the less based on perfectly justifiable considerations. It was very likely that some of the other draft resolutions submitted to the Committee in connexion with the subjects dealt with in chapters IV and V of the Council's report would also have to be transmitted to the Commission on Human Rights. It would therefore be better to postpone any decision on the Saudi Arabian draft resolution until the Committee had finished examining all the draft resolutions relating to chapters IV and V.

13. Miss JOHNSEN (Denmark) wondered if it would not be possible to get round the difficulty by describing the Saudi Arabian text as a suggestion rather than a draft resolution, so that it would not be necessary to vote on it at a plenary meeting.

14. Mr. P. CHENG (China) pointed out that at a previous meeting (518th meeting) the Committee had adopted a procedural draft resolution (A/C.3/L.385/Rev.1) on the frequency of meetings and the composition of the Social Commission, which had been submitted by Canada and which was similar to the text under discussion. There was therefore no reason why the Committee could not take a similar decision on another question, which was also far more important than the previous one. Unless the Saudi Arabian representative withdrew his text, it should be put to the vote.

15. Mr. PAZHWAK (Afghanistan) stated that every delegation had the right to submit any proposal which

it thought fit to make to the Committee, and the Committee in turn had the right to adopt or reject such a proposal. It was for the Saudi Arabian representative to decide whether he wished to withdraw his draft resolution. If he did not, the Committee was not empowered to refuse to vote on it. The Saudi Arabian representative should therefore be asked whether he withdrew his draft resolution or stood by it. If he stood by it, there was no point in continuing the debate, and the Committee should proceed to the vote.

16. Furthermore, the draft resolution was not solely concerned with the transmission of the relevant documents to the Commission on Human Rights. The second paragraph of the operative part, determining the time within which the documents were to be transmitted to the members of the Commission, brought in a new element and the Committee should make its intentions clear on that point so that the Secretariat could be clearly informed.

17. Mrs. PINTO DE VIDAL (Uruguay) pointed out that the Committee appeared to have decided to transmit the question to the Commission on Human Rights without taking a vote. The USSR representative's comments were therefore justified. She did not think that the Committee should formally commit itself on that point and, unless any delegation objected, the Chairman could transmit the relative documents to the Commission on Human Rights in virtue of the powers he already possessed.

18. Mr. BAROODY (Saudi Arabia) thought that the USSR representative's difficulties were due to the fact that, like some other representatives, he had not put forward his delegation's view during the debate. When the Commission on Human Rights was dealing with the subject again, it would certainly not be able to find any indication of the USSR delegation's position from the documents which were to be submitted to it containing the views expressed by most of the members of the Third Committee. It was true that the Saudi Arabian delegation had also not made long statements setting forth its views in detail, but it had made it clear that its opinion had not changed since the fifth session of the General Assembly in 1950. While appreciating the soundness of the arguments put forward by certain unitary States against the inclusion of a federal clause, Saudi Arabia also understood the difficulties of the federal States and would abstain. In that connexion he was desirous of reserving his delegation's position on the substance of the matter. The USSR representative could therefore overcome his difficulties by explaining his delegation's attitude to the substance of the question when he explained his vote on the draft resolution.

19. In any event, it was desirable to repeat that the draft resolution under discussion did not affect the question of substance. It confined itself to recording the compromise which had been reached, and there seemed to be no reason why the Committee could not state its opinion on the matter. Furthermore, as the Afghan representative had noted, the Secretary-General was requested to transmit the relevant documents to the members of the Commission on Human Rights not less than two weeks before the opening of the Commission's session, and, if he did not have the backing of a formal decision from the Committee, some organs might accuse him of having given the Commission on Human Rights preferential treatment. Indeed, the Secretary-General would not even be author-

ized to take the action provided in the draft resolution in the absence of an express request from the Third Committee. It was impossible for paragraph 2 of the operative part to be put to the vote independently of the rest of the draft resolution, and it was therefore clear that the draft resolution would have to be put to the vote. For that reason, he would stand by his text, and would ask the Committee to state its opinion on it.

20. The USSR representative had said that the question was particularly important, and the same idea had been expressed by the Chinese representative. That would be reason enough for the Committee's decision to be expressly recorded in a text, but it could also be pointed out that the USSR representative had not explained why the question seemed to him to be particularly important and why he thought it would be advisable to treat it differently from the question the Iraqi draft resolution had raised.

21. Mr. McGUIRE (Australia) said that he had thought from the beginning that the Secretariat should be given instructions and that the Committee should take a formal decision. He was therefore grateful to the Saudi Arabian representative for having submitted his draft resolution, which he would support.

22. Mr. SAKSIN (Union of Soviet Socialist Republics) was glad to note the Saudi Arabian representative's interest in the USSR delegation's statements. Nevertheless, he pointed out that each delegation spoke when it thought fit and when the subject on the agenda interested it particularly. With regard to his country's attitude to the federal clause, he recalled that the USSR delegation had stated it clearly before the Commission on Human Rights and that it had even submitted a draft resolution on the subject (E/2447, annex II B, section IV). Its attitude had not changed.

23. With regard to the Saudi Arabian draft resolution, there was a danger of the Third Committee descending to the rank of a post office. He did not deny the Saudi Arabian representative's right to submit draft resolutions, and he had only asked him not to press for his draft resolution to be put to the vote.

24. Miss BERNARDINO (Dominican Republic) recalled that, when the Third Committee had discussed the federal clause at the fifth session of the General Assembly, her delegation had been among the first to point out the delicacy of a question affecting the vital interests of certain federal States. It had maintained that the Commission on Human Rights should be given specific instructions to continue the examination of such an important point, bearing in mind the opinions expressed by the members of the Third Committee. The suggestion thus made by the Dominican Republic in a conciliatory spirit had been taken up by several delegations and they had submitted a draft resolution to that effect to which the Dominican delegation had subscribed. It had, however, declared that in any event it would vote against the insertion of the federal clause in the draft covenants because it regarded the clause as restrictive. It had stressed that, if the Charter, the basic law of the Organization, did not include the federal clause, there was all the more reason, from the juridical point of view, why the clause should not be inserted in the draft covenants.

25. In conformity with its previous policy, the Dominican delegation would vote for the conciliatory draft resolution submitted by Saudi Arabia.

26. When the draft covenants were discussed, it would reserve the right to vote against the inclusion of the federal clause.

27. Mr. PAZHWAK (Afghanistan) pointed out that his amendments (A/C.3/L.387) were procedural and had practically the same purpose as the Saudi Arabian draft resolution. He would not, however, ask for them to be voted on first, in order not to disturb the harmony which seemed to have been achieved in the Committee. If the draft resolution were to be rejected, the Afghan amendments would stand, but if the draft resolution were to be adopted, the amendments, which had been quoted in the draft resolution, would be automatically transmitted to the Commission on Human Rights. He would therefore prefer the Third Committee to postpone voting on the part of the draft resolution mentioning the documents to be transmitted to the Commission on Human Rights, since he would like to know what was to happen to the draft resolution before withdrawing his amendments.

28. The CHAIRMAN pointed out that the Afghan representative would have to withdraw his amendments, if he desired to do so, before the vote, but that he could ask for a separate vote on the second paragraph of the preamble.

29. Mr. PAZHWAK (Afghanistan) decided to withdraw his amendments.

30. If the Saudi Arabian draft resolution were not adopted, he would reserve the right to submit amendments to the Egyptian draft resolution (A/C.3/L.366) later.

31. The CHAIRMAN put the Saudi Arabian draft resolution (A/C.3/L.389) to the vote, on the understanding that the reference to the Afghan amendments (A/C.3/L.387) would be deleted from it.

The draft resolution was adopted by 40 votes to none, with 8 abstentions.

32. Mr. DUNLOP (New Zealand) wished to explain his delegation's position, since the Committee had just decided to transmit its records to the Commission on Human Rights, of which New Zealand was not a member.

33. The New Zealand Government had for several years been examining the difficulties which federal States would have to overcome in order to become parties to multilateral conventions such as the proposed covenants on human rights. It had arrived at the conclusion that it was important to give careful consideration to the situation, in the terms of such instruments, of the states or provinces forming parts of federal States since some articles of the draft covenants would refer to matters in which the constituent parts were independent. In such cases, they might find themselves unable to ratify the covenants for a number of years, in exactly the same way as unitary sovereign States. It followed that in order to facilitate acceptance of the covenants by a federal State, there would have to be either the federal clause in some form or a practically unlimited right of reservation.

34. The New Zealand Government, for its part, was not in favour of granting an unlimited right of reservation. It therefore considered it desirable to establish a close relationship between the study of the federal clause and that of reservations. A decision not to include a federal clause in the draft covenants would prejudice the question of reservations unless some federal States

were to be denied the right to ratify the covenants. Some federal States which had reached a high standard in the matter of human rights were quite sincere in their desire to have a federal clause drafted. Only the most urgent considerations would justify the disregarding of their wishes, and none of the objections to the federal clause so far raised seemed convincing to the New Zealand delegation. The New Zealand Government would naturally hesitate to accept a federal clause which would allow a federal government to divest itself completely of responsibility for decisions taken by the government of the constituent units of the federal State. It nevertheless believed that a federal clause could be drafted which would meet the difficulties confronting a federal State and, at the same time, enable it to secure the co-operation of its constituent states or provinces as rapidly as possible. The New Zealand Government therefore noted with satisfaction that the Committee had adopted the draft resolution submitted by the Saudi Arabian delegation and that General Assembly resolution 421 (V), part C, was still valid.

35. The New Zealand delegation had consistently taken the view that legal matters should be referred to the International Court of Justice as often as possible and had been interested in the proposal contained in the Guatemalan amendments (A/C.3/L.388). In the case in point, however, it did not feel that reference of the question to the International Court was justified. On the one hand, the question of the federal clause was a matter of principle, which it was for the General Assembly to decide upon, on the recommendation of the Commission on Human Rights. On the other hand, while it was true that the question raised legal problems, those problems were related to the interpretation of individual federal constitutions; in other words they were more closely related to constitutional law than to international law.

36. Mr. LOPEZ VILLAMIL (Honduras) felt that the resolution did not solve the basic question before the Committee. Since that question affected the very institutions of States, it should be dealt with not in the Third Committee, but in the Sixth Committee. He had therefore abstained in order not to jeopardize the spirit of good will which members of the Committee had displayed, but he reserved the right to vote at a later stage against the insertion of the federal clause.

37. Mr. MENESES PALLARES (Ecuador) said that his delegation, without going into the substance of the two draft resolutions neither of which led to any final conclusion, had considered that the Saudi Arabian draft resolution, which had proposed a relatively satisfactory solution, served a useful purpose. The solution was only relatively satisfactory because it was unusual for the General Assembly to adopt a series of proposals and suggestions, none of which was conclusive, and refer them to its subsidiary organs. He agreed with the USSR representative that such a procedure was a sorry indication of the extent to which the United Nations was capable of solving basic issues. The compromise solution which the Third Committee had just adopted had the advantage of facilitating the future task of the Commission on Human Rights and of permitting full use to be made of that functional organ's technical knowledge.

38. The Guatemalan representative's proposal was of great interest. The question could usefully be referred

to the International Court of Justice. While there was a political side to the problem, there was also a legal side to it, and it would be desirable, from the legal point of view, to have the opinion of the highest judicial body in the world. After all, the Court had already taken a position on political questions such as the admission of new Members to the United Nations. The Commission on Human Rights would therefore do well to take account of the excellent amendment Guatemala had proposed.

39. Mr. VENKATARAMAN (India) emphasized that his delegation considered the question of the federal clause political and not legal. It should therefore be submitted to the General Assembly. The Indian delegation was opposed to the idea of referring the question to the International Court of Justice. Therefore, its support of the draft resolution should not be construed as acceptance of the Guatemalan proposal mentioned therein.

40. Miss JOHNSEN (Denmark) said that the fact that she had voted for the draft resolution did not mean that the Danish Government had altered its stand; it was still opposed to the federal clause. However, its purpose in opposing it was not to close the door to federal States. That was clear from the proposal it had submitted to the Commission on Human Rights at its seventh session, to the effect that federal States should be authorized to make special reservations.

41. Mr. HUIZI AGUIAR (Venezuela) said that he would have supported the Australian draft resolution (A/C.3/L.374) and had therefore voted for the Saudi Arabian draft resolution, in keeping with the conciliatory position his delegation had taken during the debates in various United Nations organs. Although Venezuela was a federal State, there was no reason for it to ask for the inclusion of a federal clause because its Constitution contained a provision relating to international instruments. However, it could not disregard the difficult position of some federal States Members of the United Nations, a position which required consideration of an article such as that provided for in resolution 421 (V), part C. His vote did not in any way prejudice the position he would take when the question of the federal clause came before the General Assembly.

42. Mr. PAZHWAK (Afghanistan) said that he had abstained because he had not wanted to go against the wishes of the Committee and of the parties which had reached a compromise. He was not, however, committed on the substance of the question on which Afghanistan maintained the position it had adopted at the fifth session of the General Assembly. Hence, when the Commission on Human Rights considered the result of the debates in the Third Committee, it would have to associate the Afghan delegation with those which had considered it unnecessary to include a federal clause in the draft covenants. He hoped that the Commission on Human Rights would adopt a recommendation which would cause the General Assembly to reconsider its decision.

43. Mr. ESTRADA DE LA HOZ (Guatemala) explained that the purpose of the Guatemalan proposal was to obtain a strictly legal opinion on the federal clause from the International Court of Justice. The Guatemalan delegation maintained its opposition to the reference of political questions to the Court.

44. Mr. AZMI (Egypt) said that he had voted in favour of the draft resolution. He had asked for instructions and the debate in the Committee had brought to light two clearly defined sides, one in favour of and the other against the federal clause. Between the two extreme positions, most of the delegations which had participated in the debate had shown some hesitation; they had even expressed reservations and had wished to ask their governments for instructions. Opinion was divided as to the very nature of the problem whether it was legal, political, or legal, political and social. In view of the prevailing uncertainty, the Third Committee was obviously not ready to give the instructions for which he had hoped and the question of the federal clause was premature. In order to be in a position to give useful instructions it was therefore only fair and proper to allow Member States and other international organizations more time to consider the matter. At the next session of the General Assembly, supporters of the federal clause would have had time to read the articles of the draft covenants setting forth rights and to reflect on them, leaving aside such pre-conceived ideas as the need for a federal State to protect itself by a federal clause. A clearer position would no doubt emerge and he hoped that the majority would oppose the inclusion of the federal clause.

DRAFT RESOLUTION SUBMITTED BY EGYPT (A/C.3/L.368)

Communications concerning human rights

45. The CHAIRMAN invited the Committee to consider the Egyptian draft resolution (A/C.3/L.368) regarding communications concerning human rights.

46. Mr. P. CHENG (China) recalled that, when the Chairman had proposed that the draft resolutions should be taken up in the order listed in the note by the Chairman (A/C.3/L.378), the Afghan representative had expressed reservations and it had consequently been decided that the order would remain provisional and that the Committee could change it if it wished. He himself felt that the question of communications was closely related to that of the right of petition. Moreover, any decision regarding communications might prejudice decisions on the right of petition. Adoption of the Egyptian draft resolution (A/C.3/L.368) would, in fact, presuppose recognition of the right of appeal of individuals and would more or less automatically entail the inclusion of a clause relating to the right of petition in the draft covenants.

47. He therefore asked that the Committee should first consider the draft resolution submitted by Ecuador, Egypt, Guatemala, the Philippines and Uruguay (A/C.3/L.372/Rev.1) in order to allow a decision to be taken in principle before there was any debate on individual applications.

48. Mr. AZMI (Egypt) observed that the question of communications was quite separate from that of the draft covenants. That was why he had unreservedly supported the order suggested by the Chairman. If the Committee were successively to consider every point related to the covenants, it would be natural to take up the question of the right of petition immediately after the federal clause. It had in fact been his view that in placing the draft resolution concerning communications between the two proposals relating to very im-

portant features of the problem of the covenants, the Committee would secure a sort of useful interval, or rest period. As communications had nothing to do with the covenants, the Committee would not run the risk of prejudging its decisions on the right of petition.

49. Moreover, he had been prepared to participate in the debate on the draft resolution on communications concerning human rights (A/C.3/L.368) and did not have at hand the documents necessary for presentation of the draft on the right of petition. If the Committee were to adopt the Chinese delegation's proposal, he would be compelled to ask for adjournment of the meeting. It seemed to him that the Committee would gain time by following the prescribed order. The question of communications was simple and could be disposed of rapidly. The question of the right of petition, on the other hand, gave rise to complicated issues, such as the Uruguayan proposal that an Office of the United Nations High Commissioner (Attorney-General) for Human Rights should be established; there would probably be a lengthy debate on that subject. For the reasons given, he felt that the Committee should abide by the order suggested by the Chairman.

50. Mr. PAZHWAQ (Afghanistan) wished to explain that he had entered reservations when the Chairman had suggested a certain order to be followed because the delegations had not had time to think the matter over. If a final decision had been adopted too soon, there might have been arguments and difficulties later. That was why he had urged that the programme of work should remain provisional. However, the Afghan delegation had no objection to the order suggested by the Chairman.

51. The CHAIRMAN noted that the Chinese representative was not making a formal proposal to change the order in which the draft resolutions were to be considered and that no other member of the Committee objected. In that case, the Committee would examine first, as planned, the draft resolution relating to communications.

52. Mr. AZMI (Egypt) reviewed the current procedure in the matter of communications concerning human rights. The Secretary-General transmitted to the Commission on Human Rights, at each of its sessions, two lists of communications: a confidential list and a non-confidential list. The Commission took note of the confidential list, transmitted in a sealed envelope, at a private meeting; it heard a statement by the representative of the Secretary-General and concluded its discussion without passing on the matter. At the ninth session, when the Chairman had said that the Commission had "taken note" of the list, the USSR delegation had protested against the use of that term and a discussion had followed; in the end, the difficulty had been overcome. Some members of the Commission had sought to have the Secretariat submit the communications by categories, but even that suggestion had met with strong opposition. Nevertheless, the Secretary-General had adopted the method of presentation to be found in paragraph 793 of the Economic and Social Council's report (A/2430). However that might be, the facts remained that the Commission received a list of communications, that is, evidence relating to cases of infringement of human rights in various countries, and that it could take no decision on them.

53. That odd procedure was in line with the principles laid down by the Economic and Social Council in four

resolutions. In resolution 75 (V) the Council had requested the Secretary-General to compile, before each session of the Commission on Human Rights, a confidential list of communications received; to furnish it to the Commission, in private meeting, without divulging the identity of the authors; to enable the members of the Commission, upon request, to consult the originals of communications dealing with the principles involved in the promotion of universal respect for and observance of human rights; to inform the authors that their communications had been received and duly noted for consideration in accordance with the procedure laid down by the United Nations; and, finally, to furnish each Member State not represented on the Commission with a brief indication of the substance of any communication concerning human rights referring explicitly to that State or to territories under its jurisdiction. In resolution 116 A (VI) the Council had provided for divulging the names of authors of communications in certain specified cases. In resolution 192 (VIII), the Council had requested the Secretary-General to ask governments sending replies to communications whether they wished their replies to be presented to the Commission on Human Rights in summary form or in full. Finally, in resolution 275 (X), the Council had requested the Secretary-General to compile two lists: a confidential and a non-confidential list. The main point that emerged from all those provisions was that the Commission on Human Rights did not have the right to discuss or really study the communications. The authors were told that their documents would be examined according to a certain procedure, but no procedure was provided for examining communications.

54. The situation seemed paradoxical: the Commission on Human Rights, a most important organ of the United Nations, received a list of communications with respect to which it was not allowed to express an opinion or even to hold a discussion. The dignity and prestige of the Commission and the United Nations could only suffer from such a state of affairs. Actually, there seemed to be no point in transmitting the list to the Commission if the Commission could not even inform the Council of its considered opinion on the cases of infringement of human rights drawn to its attention. The Egyptian delegation considered that an inadmissible situation and that was why it had submitted the proposal that the General Assembly had adopted at its sixth session (resolution 542 (VI)). In that resolution, the Assembly had decided to invite the Economic and Social Council to give the Commission on Human Rights instructions for its ninth session with regard to communications and to ask the Commission to formulate its recommendations on them. The Assembly had taken that decision before the eighth session of the Commission on Human Rights; the Economic and Social Council had therefore had plenty of time to prepare the instructions to be given to the Commission for its ninth session. However, at its eighth session, the Commission had had before it a draft resolution inviting it to ask the Council to review the question of communications. One delegation had objected to the proposal, citing the previous resolutions of the Council in support of its position, and the Commission had rejected it. The Council, in taking note of Assembly resolution 542 (VI) at its fourteenth session (Council resolution 441 (XVI)), had observed that the Commission on Human Rights had decided to reject the proposal to request the Economic and Social Council to reconsider resolution 75

(V) as amended and the Council had decided not to take action on the matter at that time. That had given rise to an extraordinary situation: an Assembly resolution had remained without effect as a result of the complications arising from unbelievable confusion. Moreover, at its ninth session, the Commission on Human Rights had modestly confined itself to taking note of the communications.

55. The Egyptian draft resolution (A/C.3/L.368) sought to restore the situation, to give the Commission on Human Rights the dignity it deserved and to make possible the implementation of a previous decision of the General Assembly. In view of the fact that the Economic and Social Council had once again shown that it was somewhat inclined to shirk its duty, the Egyptian delegation proposed that the Commission should be approached directly. The task to be entrusted to the Commission would still be very modest: it would have to classify the communications, to select those containing "allegations . . . serious enough to justify reference to . . . governments" and to transmit them to the governments concerned with a request for their comments. If the government's replies seemed satisfactory, they would be filed; if not, the Commission on Human Rights would transmit all the relevant documents to the Economic and Social Council. That procedure would help to restore the prestige of the Commission on Human Rights and the United Nations before world public opinion. It was inadmissible for the United Nations to claim that it studied communications when in fact it did not do so.

56. Those were the considerations behind the Egyptian draft resolution. If it were to be rejected by the General Assembly, it would be better for no further communications to be sent to the Commission on Human Rights. The Secretary-General could just as well reply to the authors on his own behalf and tell them that he had taken note of their communications. A body such as the Commission should not be given what appeared to be responsibility while it was being paralysed in other ways and denied every possibility of doing anything. Either no communications should be sent to the Commission on Human Rights or it should be given the opportunity of following up the complaints laid before it.

57. Besides, the Egyptian proposal, it must be repeated, was still quite modest. A member of the Commission on Human Rights could invoke the terms of reference assigned to the Commission by resolutions 5 (I) and 9 (II) of the Economic and Social Council; under those resolutions it was the task of the Commission on Human Rights, the first of the functional commissions established by the Council, to submit proposals, recommendations and reports to the Council regarding an international bill of rights, international declarations or conventions on fundamental freedoms, the protection of minorities, the prevention of discrimination or any other matter concerning human rights. It was his opinion that the question of communications was by definition a "matter concerning human rights". The Commission would be fully entitled, despite the provisions of Council resolution 75 (V), to make recommendations on its own initiative in the matter and thus compel the Economic and Social Council to speak up and not to adhere forever to its attitude of pure and simple shirking. However, the draft resolution did not go that far and its provisions were still very moderate. The question

did not seem to raise any difficulties and he hoped that the Committee would be able to reach a decision quickly.

58. The CHAIRMAN asked representatives who wished to speak on the draft resolution under discussion to have their names put on the list as soon as possible.

59. Mr. PAZHWAK (Afghanistan), supported by Miss BERNARDINO (Dominican Republic), asked that the list of speakers should not be closed too soon.

60. The CHAIRMAN assured the representatives of Afghanistan and the Dominican Republic that the list of speakers would not be closed too soon.

61. In reply to a question from Mrs. AFNAN (Iraq), Mr. AZMI (Egypt) pointed out that paragraph 793 of the Economic and Social Council's report contained all the necessary data on the communications received between 28 April 1952 and 31 March 1953.

The meeting rose at 1.5 p.m.