



C O N T E N T S

Page

Agenda item 58:

Draft international covenants on human rights (*continued*) 211

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.4 and Corr.1 and 2, A/C.3/L.412, A/C.3/L.413, A/C.3/L.414, A/C.3/L.418 and Add.1, A/C.3/L.421, A/C.3/L.422, A/C.3/L.424, A/C.3/L.427 and Add.1) (*continued*)

PROCEDURAL PROPOSAL SUBMITTED BY COSTA RICA (A/C.3/L.410/REV.4 AND CORR.1 AND 2) (*continued*)

1. Mr. NUÑEZ (Costa Rica) drew the Committee's attention to the corrigenda (A/C.3/L.410/Rev.4/Corr.1 and 2) to the draft resolution submitted by Costa Rica (A/C.3/L.410/Rev.4). Corrigendum 1 merely brought the English text into line with the French and Spanish versions. Corrigendum 2 had been suggested by the Chilean representative, and it was hoped that it would eliminate the difficulty some delegations had had with the second paragraph of the preamble by allowing a broader interpretation of the word "*examinado*."

2. With regard to paragraph 1 (c) of the operative part of the draft resolution, it was true that Governments, the specialized agencies and the non-governmental organizations had already expressed their opinions in general terms, and many of their ideas had been incorporated in the draft covenants. The draft covenants, which were almost completed, constituted a new document. It was hoped, however, that a synoptic view of world opinion on the new instruments and their specific provisions could be obtained.

3. All possible means of gathering the ideas of the public should be used. Governments which were sensitive to public opinion in their own countries would no doubt wish to collect those ideas themselves and revise their own attitudes accordingly. The non-governmental organizations were only one channel by which the United Nations could make contact with world public opinion, but a very effective one, both for obtaining the views of the public and for disseminating information about the draft covenants; to instruct the Secretariat to obtain and disseminate those views without their assistance was to give it an almost impossible task.

4. The fact that the draft resolution spoke of stimulating public interest did not mean that there had been no interest previously in human rights in general; what

was required was to concentrate public interest on the draft covenants themselves.

5. It was not the intention of the draft resolution to restrict the invitation to non-governmental organizations with consultative status, but to open the door to ideas and observations from all organizations interested in human rights. He was, however, prepared to consider such a restriction. The specific mention of organizations in dependent territories was intended to make it clear to the indigenous inhabitants that they were not excluded from the benefits of the covenants and that their opinions would be welcomed and considered; no reflection on the administering Powers was intended.

6. Mr. EL-FARRA (Syria) said that he was grateful to the United Kingdom representative for his statement at the 583rd meeting, but stressed that his own view of the word "effectively" had been based on its use by the International League for the Rights of Man in a letter sent to every member of the Third Committee. That organization had supported the idea that the principle of self-determination should be excluded from the covenants, thus indicating that such non-governmental organizations did not necessarily give a true reflection of public opinion.

7. He welcomed the United Kingdom representative's acceptance of the omission of the word "effectively", and he had submitted an amendment (A/C.3/L.428) to that effect; but if the Greek amendment (A/C.3/L.430), which was perfectly acceptable, was adopted, he would not press his own amendment.

8. Mr. RODRIGUEZ FABREGAT (Uruguay) observed that to the intrinsic difficulty of drafting the third paragraph of the preamble satisfactorily had been added a series of linguistic difficulties. The United Kingdom representative had stated the position very clearly (583rd meeting). If the paragraph was to refer to "the" or "these" covenants, the mood of the verb "safeguard" would have to correspond to the meaning required.

9. Operative paragraph 1 (c) had caused a good deal of discussion. The Costa Rican representative had sufficiently explained its underlying principle. There should be a universal attitude towards the covenants; the self-governing part of the human family should not separate itself from the non-self-governing part. Politically sovereign and independent nations had developed a State apparatus which, in democratic countries, was regarded as the servant of the individual and a means by which he could secure the enjoyment of his rights, but Non-Self-Governing and Trust Territories had no such facilities. It was therefore just that their views should receive special consideration. The Uruguayan delegation could see no difficulty in obtaining their opinions through non-governmental organizations. Far from being a desperate appeal, as the United Kingdom representative had described it, it was an expression of solidarity in the spirit of the United Nations Charter.

10. He was surprised that the United Kingdom representative had criticized the Uruguayan delegation for obtaining ideas from non-governmental organizations. Consulting with such organizations had the same advantage as consulting with other delegations when submitting a proposal. To be effective such consultation should be direct and not through intermediaries; that was why many delegations were anxious that the non-governmental organizations in the dependent territories should not be excluded.

11. The Costa Rican representative's explanation of the role of the Secretariat in collecting and disseminating observations and proposals had clearly shown the need for the Uruguayan proposal (A/C.3/L.420)—which had been withdrawn—to set up a sub-committee. However much confidence was placed in the Secretariat, and however efficient it might be in the routine work of collection and dissemination, the interpretation and presentation of the observations received had to be performed by a body with political responsibility. In view of that, the Uruguayan delegation would find it difficult to vote for operative paragraph 2 as it stood, and would be pleased if future speakers showed sufficient interest in the idea of the sub-committee to make it worth while to reintroduce it.

12. The Uruguayan delegation would vote on the remaining amendments on the basis of the principles it had already outlined.

13. Mrs. QUAN (Guatemala) said that her delegation's amendment (A/C.3/L.425) to operative paragraph 3 had been based on the third revision of the Costa Rican draft resolution (A/C.3/L.410/Rev.3) and was intended merely to clarify the wording. Most of it would still apply to the fourth revision. First, the repetition of the word "*sesiones*" in the Spanish version had been eliminated. Secondly, the words "priority"—indicating precedence in order—and "preference"—indicating priority of importance—had been used to meet the objection—raised against the text of the third revision—that the initial meetings would have to be devoted to the election of officers and the adoption of the agenda. Thirdly, the expression "*por artículos*" had been used instead of "*artículo por artículo*" in order to give greater flexibility—a distinction of language that could not be reproduced in the English version. Fourthly, from the English and Spanish wording—but not the French—of the original, it might seem that it was the new articles, not the draft covenants as a whole, which were to be adopted at the earliest possible date. By dividing the sentence and changing the tense of the verb that confusion had been eliminated.

14. Mr. AZKOUL (Lebanon), introducing the amendment proposed jointly by the Egyptian and Lebanese delegations (A/C.3/L.429), drew attention to certain errors in the text. The first amendment was to the third paragraph of the preamble, not to paragraph 3 of the operative part; the word "reaffirms" should read "reaffirming" and the second and third amendments should be combined, the new paragraph proposed being intended to replace paragraph 1 (c) but to be inserted between operative paragraphs 2 and 3.

15. The purpose of the amendment was to produce a wording which would serve the purpose originally intended and eliminate the virtually irreconcilable divergences of view. Two main trends of thought had emerged with regard to the third paragraph of the preamble. One group of delegations preferred the omission of the word "the" or "these" before "international

covenants". One basic objection was that that wording might be construed as meaning that some other covenants should be adopted as soon as possible, and that would be equivalent to wiping out all the work done so far. There seemed to be no possible way of avoiding giving that impression by drafting changes. The opposing group favoured the retention of the word "these", making it clear that the reference was to the drafts before the Committee, which were qualified by the phrase "which will effectively safeguard the rights of the human person". That qualification had been rightly criticized. Many thought that the drafts as they stood did not adequately safeguard human rights; the covenants might do so when amended. The two interpretations were irreconcilable, especially with regard to the article on the right of self-determination. Those who advocated its inclusion in the draft covenants thought that its inclusion would in itself effectively protect human rights, whereas those who opposed that view asserted that only by its exclusion could human rights be effectively protected. The qualification, therefore, simply enabled the same wording to be used for two wholly contradictory interpretations.

16. The only way out was to return to the original intent. The qualification stated nothing new; the principle had, indeed, been the basis of all the work on the draft covenants. The purpose of the paragraph was to indicate that the General Assembly at its ninth session considered it important that the draft covenants in their final form should be adopted as soon as possible. That was the new idea. The final form might be the existing text or an amended one, but the final form had to be specified, otherwise the paragraph might be thought to refer exclusively to the existing form. Thus, if the joint amendment were adopted, it would be clear both that there was no thought of an indefinite number of covenants and that the draft covenants might be amended.

17. The Greek amendment (A/C.3/L.430 and Corr.1) certainly avoided the existing difficulties, but it added nothing of practical value. It might have been useful if introduced at the outset of the work, but the idea in it had long been taken for granted by most delegations. It was open to the same criticism as the wording "the covenants" and it omitted the idea of the time element, the key to the paragraph.

18. The Syrian amendment (A/C.3/L.428) seemed pointless; if human rights were to be protected, they should be protected effectively.

19. With operative paragraph 1 (c), too, the amendment was designed to restore the original purpose, which had apparently been lost sight of in the welter of drafting and other changes. Originally there had been two quite separate ideas in that paragraph: first, that the non-governmental organizations should present their comments on the draft covenants and, secondly, that they should stimulate public interest in them. The first idea had been jettisoned. The only idea that remained was the stimulation of public opinion, an idea based on the Egyptian delegation's preliminary statement in the debate (571st meeting) and on the assumption that world public opinion was not sufficiently aware that the draft covenants had been completed and were to be adopted as soon as possible. The main difficulty with the text as it stood was that of the definition of the non-governmental organizations concerned with the promotion of human rights. Some members thought that all such organizations, national and international, should be invited to stimulate opinion, others that only those

having consultative status with the Economic and Social Council should be so invited.

20. Should the joint amendment be rejected, he would support the restriction to organizations with consultative status, including their branches in Non-Self-Governing Territories. He would be only too glad if it were possible to invite all non-governmental organizations, but that would create endless complications and perhaps even stultify the purpose. Everyone agreed that the Secretary-General could not communicate directly with all non-governmental organizations concerned with the promotion of human rights, since they were not even listed in any document and many of them had no definite status. Thus, in the absence of a letter from the Secretary-General, the appeal would lose much of its effectiveness, whereas if it was restricted to organizations with consultative status, the Secretary-General could address each of them individually and the General Assembly would know that the communication had been received.

21. A matter of principle was involved. The General Assembly, composed of representatives of Governments, could not possibly address all non-governmental organizations without knowing whether they were legally established; some might be illegal. Accordingly, the qualification "legally established" would have to be inserted. But that gave rise to a further difficulty: there might be organizations in Non-Self-Governing Territories which were very much concerned with human rights but not legally established. The paragraph would explicitly exclude them. They were to stimulate public opinion by all possible means; but as they were not in any way bound by the Charter of the United Nations, they might even construe that as an invitation to revolution. The General Assembly could not issue such an unqualified invitation. Some Governments might have refused the legal establishment of an organization for reasons, perhaps, of national security. Such an organization, pleading its concern for human rights, might use the paragraph as a pretext for applying for legal establishment. If the Government concerned refused, it would be in breach of a General Assembly resolution; if it agreed, it would be laying itself open precisely to the danger it had hoped to avoid by refusing legal establishment. But, if the invitation was confined to organizations in consultative status with the Economic and Social Council, the Assembly could be sure that they were legally established and would use only means sanctioned by the United Nations Charter.

22. It would, however, be preferable for the Committee to revert to the original purpose. It should call on the normal agency for the dissemination of information about the United Nations, the Department of Public Information. He was quite aware that the Department was already engaged in disseminating such information, but it might be encouraged to concentrate more on the draft covenants and to make a greater effort if it knew that the General Assembly felt that the draft covenants warranted it. The Secretary-General was not being asked to embark on any new activities; the joint amendment (A/C.3/L.429) expressly specified that he should use only the media of information available to him, within the limits of his budget. Another advantage of that procedure was that the Secretariat could not by its nature discriminate between self-governing and non-self-governing territories. Even if the joint amendment was not accepted, its presentation might at least have thrown light on the problems inherent in the basic text (A/C.3/L.410/Rev.4).

23. Miss BERNARDINO (Dominican Republic) considered that the sixth paragraph of the preamble was confusing, since it disregarded the fact that the draft covenants had been discussed for several years in the Commission on Human Rights, the Economic and Social Council and the General Assembly, and had consequently been before the public during that time. Moreover, no mention was made of the valuable contributions which non-governmental organizations in consultative status with the Economic and Social Council had made to the drafting of the covenants. As Vice-Chairman of the International Council of Women, which was greatly concerned with the covenants and their success, she hoped that the paragraph would be improved by mention of the useful work done by non-governmental organizations. That might be done by stressing that the non-governmental organizations should continue to express their views.

24. Mrs. TSALDARIS (Greece), introducing her delegation's amendment (A/C.3/L.430) to the Costa Rican draft resolution, said that the word "unequivocal" in the English text did not convey the idea of the French and should be replaced by the phrase "precisely formulated" (A/C.3/L.430/Corr.1). The third paragraph of the preamble had proved to be the most controversial in the whole draft and a separate vote had been suggested on it; she had submitted her amendment in an endeavour to find a generally acceptable wording and to expedite the vote. It was drafted so as to retain the spirit of the preamble to the second revision of the Costa Rican draft resolution; the word "Considering" was replaced by the word "Reaffirming", as suggested by the Ecuadorian representative, and the word "urgent", was deleted in view of the Costa Rican representative's proposal. She also proposed that the words "as soon as possible" should be added at the end of the paragraph, to meet the wishes of the Egyptian and Lebanese representatives.

25. The wording of that paragraph in the latest revision of the draft resolution (A/C.3/L.410/Rev.4) gave rise to the mistaken impression that the Third Committee was preparing an unspecified number of covenants, and that certain key provisions would be disregarded, such as the article on the right of self-determination, which the Greek delegation considered, as it had several times declared, to be the fundamental right of the covenants and of individual liberty generally. The Syrian representative had also expressed fears in that connexion. The French and United Kingdom representatives had assured the Committee that they had had no intention of referring to further covenants or of undermining the principle of self-determination, but had said that, if the draft covenants were specified, the question of their adoption in their existing form would be prejudged. There was no cause for anxiety on that subject, since the examination of the draft covenants article by article would give all delegations an opportunity to put forward their observations after the compilation of observations had been prepared by the Secretariat. She hoped that her amendment, which was general, would meet all the objections that had been raised to the paragraph in its original form.

26. Mr. PAZHWAK (Afghanistan) considered that the Egyptian and Lebanese amendment (A/C.3/L.429) fundamentally altered the substance and spirit of the Costa Rican draft resolution and could not properly be called an amendment, since it proposed the wholesale substitution of two paragraphs. The three principles

in the original operative paragraph 1 (c), which he had proposed and which had been accepted by the Costa Rican representative, were that non-governmental organizations should be invited to participate in stimulating public interest, that such organizations in Non-Self-Governing and Trust Territories should be included in the invitation and that the organizations should stimulate interest by all possible means in their respective countries. The Egyptian and Lebanese amendment proposed the deletion of those principles and the substitution of a request to the Secretary-General. He would not have objected to the insertion of a new paragraph, but could not agree that operative paragraph 1 (c) should be omitted.

27. The Lebanese representative had said that the purpose of the amendment was to eliminate the difficulties raised by operative paragraph 1 (c). It was unwise, however, to eliminate statements of principle at the same time, merely because debates on those principles took time. He did not consider that inviting non-governmental organizations would be a difficult task; some speakers had pointed out that the compilation would impose a heavy burden on the Secretariat, yet it was now proposed to increase that burden by making the Secretariat responsible for the whole work of publicizing the covenants. Moreover, the deletion of the reference to non-governmental organizations was tantamount to denying peoples the right to express themselves in their own countries.

28. The Lebanese representative had also referred to the danger of extending the invitation to illegally estab-

lished organizations, which might jeopardize peace and security in their efforts to stimulate public interest. Such organizations would not be prevented from taking any action which might be a threat to security merely by the deletion of a paragraph from the Costa Rican draft resolution. Moreover, all Governments had their own methods of maintaining security.

29. He appealed to the Egyptian and Lebanese representatives to reconsider their amendment, the adoption of which would lead to abandoning an important principle of the United Nations.

30. He asked that a roll-call vote should be taken on operative paragraph 1 (c) as a whole.

31. Miss MANAS (Cuba) agreed with the French and Dominican representatives that the sixth paragraph of the preamble should be amended and formally proposed that the words "fully and" should be deleted and that the words "continue to" should be inserted before the words "express itself".

32. The CHAIRMAN pointed out that the time limit for the submission of amendments had expired.

33. Mr. MATTHEW (India) proposed the adjournment of the meeting, on the understanding that part of the next meeting would be devoted to the discussion on the draft covenants.

The motion was adopted by 39 votes to 1, with 7 abstentions.

The meeting rose at 1 p.m.