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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.367 and Add.1, A/C.3/L.368, A/C.3/L.369, A/C.3/L.371, A/C.3/L.372) (*continued*)

[Item 12]*

HUMAN RIGHTS (*continued*)

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

Communications concerning human rights (concluded)

1. Mrs. LORD (United States of America) pointed out, with reference to the draft resolution submitted by Egypt (A/C.3/L.368), that both the confidential and the non-confidential lists of communications submitted to the Commission on Human Rights were considered by the Commission. The communications referring to general principles of human rights were not regarded as confidential; communications concerning violations in specific countries were considered in closed meetings. Over 2,000 communications had been received between May 1952 and March 1953 and over 25,000 between April 1951 and May 1952 and had been placed on the confidential list. There was therefore every reason to believe that adoption of the Egyptian proposal would cause a sharp increase in the number of communications received, by eliminating the curb on submission constituted by the explicit statement that the Commission could take no action on them.

2. Adoption of the Egyptian draft resolution would mean that the Commission would have to remain in session continuously and would be authorized to consider all violations of all human rights. Every case of arrest in any of the sixty Member States, whether it involved murder or petty theft, would be subject to the Commission's consideration. All violations concerning freedom of the Press, freedom of association, freedom of religion, the right of asylum, and the questions relating to nationality, the family, children, property and so forth, could be raised. It would be very difficult for the Commission to decide on complaints concerning such matters as medical care, wage increases and educational facilities.

3. The main question was whether the Commission was the appropriate body to deal with such complaints.

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

It was doubtful whether it could be turned into a court of appeal, where a considerable time would have to be devoted to each case. Its current preoccupations filled its agenda and the additional costs implied in the Egyptian draft resolution could not properly be undertaken by the United Nations. Moreover, the reference to "serious" communications in the draft resolution raised the question of who regarded the communications as serious. Every person or organization submitting a communication would consider it serious and the Commission would have to examine each case individually.

4. A further consequence of adoption of the draft resolution would be to raise false hopes in the authors of communications. The inevitable disillusionment which would follow would serve only to discredit the Organization, which should deal only with general principles relating to human rights. The Commission on Human Rights and the Economic and Social Council had previously rejected proposals that communications should be dealt with individually. At its fifteenth session the Council had granted (resolution 473 (XV)) the Rapporteur on Freedom of Information the same facilities as those accorded to the Sub-Commission on Freedom of Information and of the Press; under the United States proposal for studies of specific aspects of human rights, it was provided that an expert adviser should have access to the documents received by the Secretary-General and thus make use of the communications for a general study.

5. Her delegation would vote against the Egyptian draft resolution.

6. Mrs. PINTO DE VIDAL (Uruguay) considered that, as the international standards of respect for and observance of human rights were laid down in the Charter of the United Nations, the Organization could not evade its obligations under the pretext that the special organs for implementation of the rights were not yet established. Millions of people throughout the world set great store by the provisions of the Charter and applied to the United Nations for the alleviation and redress of individual wrongs. The figures given in the report of the Commission on Human Rights showed how much human suffering could be related to the violation of human rights. Nevertheless, the communications had not been studied and no decision had been reached on the question whether human rights had in fact been violated. Those records of the aspirations of millions had, under Council resolution 75 (V), confirmed by resolutions 192 A (VIII) and 275 B (X), been relegated to the United Nations archives and had been given a scanty four pages in the official records.

7. The practice of marking communications as confidential and thus wiping them from the official records was grossly unfair. The United Nations could not ignore its fundamental obligations with regard to human rights, and the General Assembly, as the most representative organ of the Organization, should intervene.

8. It had been contended that neither the Commission on Human Rights nor the Economic and Social Council was competent to deal with the matter in accordance with the procedure set forth in the Egyptian proposal. Nevertheless, the Charter laid down clear instructions in that connexion and it was essential to use all available methods to implement the Charter. The Egyptian proposal made it quite clear that the proposed measures should be taken pending the establishment of suitable implementation machinery under the covenants and that the Commission should be given provisional competence to determine the seriousness of complaints and to forward them to the governments concerned and to the Council. Similar procedure had already been put into effect with regard to violations in the specific field of trade-union rights, which were discussed openly in the Council. There was no reason why that procedure should not be extended to all human rights.

9. She would vote for the Egyptian draft resolution, as a step towards the effective implementation of human rights under the Charter.

10. Mr. MENESES PALLARES (Ecuador) thought that the Egyptian representative had been right to submit such a simple draft resolution, with a view to remedying the current defective system of dealing with communications on human rights. The hopes of the thousands of persons and organizations who had submitted communications had been greatly deceived. Even though the procedure proposed in the Egyptian draft resolution did not provide a panacea, it was a step in the right direction. The governments concerned would at least know the nature of the charges brought against them and might, under moral pressure, refrain from further violations. The authors of the communications would be assured of the concern of the United Nations on their behalf. Finally, the Council might find the study of communications useful in issuing its instructions on work relating to human rights, which had in the past been conducted in a vacuum. Although the Egyptian proposal provided no final remedy, it would serve as a useful basis for the United Nations in setting up comprehensive machinery to deal with the question of communications.

11. Mr. KOS (Yugoslavia) pointed out that the problem of communications formed an integral part of the question of measures for the implementation of the covenants, which were not yet completed. The Egyptian proposal would neither expedite the completion of the covenants nor solve the question of communications. If the Commission were to decide on the new procedure, there would be little advantage in transmitting communications to the Council. The Council had already shown that it could not deal with the limited number of communications concerning trade-union rights inasmuch as it forwarded them to the International Labour Organisation. Moreover, the procedure would involve an additional burden on the Council.

12. It would be wiser to establish a procedure whereby the General Assembly would review all communications, including those concerning human rights, with adequate preparation. If the Secretary-General were to submit a questionnaire on all communications to Member States, governments would have ample time to study the political questions entailed and the problem of sovereignty need not arise.

13. His delegation appreciated the importance of the question of communications and its close connexion with

the problem of measures for the implementation of the covenants.

14. It would abstain from voting on the Egyptian draft resolution.

15. Mr. PAZHAWAK (Afghanistan) said that he wished to ask the Egyptian representative some questions. First, he wondered whether the draft resolution was as simple as the Egyptian representative had said it was; in his opinion, the implications of the proposal were complicated and required careful consideration. Furthermore, it was not clear in what capacity the Commission on Human Rights would transmit communications to governments, since it was not authorized to do so under its terms of reference. He wanted to know whether the Commission's authority in that connexion would be limited or not, what the scope of that authority would be and whether the communications would be from individuals, groups or organizations.

16. Some further questions were what practical results could be expected from the replies of governments, how communications were to be selected for transmission to governments, how the replies could best be utilized, and the criteria for determining whether a communication was serious or not. An important question was that of the channels through which communications would be transmitted to governments; some governments might accept communications through certain agencies but not through others, even if they came from the United Nations.

17. The Third Committee should be informed of the manner in which replies would be dealt with and whether all rights, or only specific rights, would be in question. That point also gave rise to the question of criteria in choosing the specific rights. If all human rights were involved, the basis on which communications should be transmitted was at issue; the Commission would not know whether to refer to the Universal Declaration of Human Rights or to the draft covenants. In any case, the covenants did not yet exist in a final form. It was impossible to settle the question until they were adopted. Moreover, as the Yugoslav representative had pointed out, work on the covenants might be delayed by adoption of the draft resolution; the phrase "pending the entry into force of the covenants on human rights" was especially open to dangerous interpretations.

18. If satisfactory replies were received from governments, the question of machinery for the investigation of the complaints and for adjudication on the claims of governments and authors of communications would arise.

19. The Egyptian representative, who had previously deplored the fact that the deliberations of the Commission on Human Rights were marred by political speeches, might consider the effect that the adoption of his proposal would have on the composition of the Commission. That humanitarian organ would perforce have to deal with its agenda from a more political point of view than before.

20. It was very important to know whether the sources of the communications would be made known to governments and what guarantees there were for the protection of the individual or collective authors of complaints against the authorities in countries where human rights could be violated. In addition, the eighteen representatives of the States members of the Commission and of the Council would be in a difficult position when taking decisions on matters directly concerning other

States and, possibly, violations committed by the governments of States represented in those organs.

21. Unless those questions were answered, his delegation could not vote for the Egyptian draft resolution.

22. Mr. CAMPOS CATELIN (Argentina), while appreciating the Egyptian representative's intentions, thought it was premature to propose a judicial system for dealing with communications on human rights. The Committee would have to reflect carefully before flooding the Commission on Human Rights with communications the veracity of which could not be ascertained and which might be submitted for political propaganda purposes. Moreover, the Commission had no power to request Member States to comment on anonymous charges of violations of human rights.

23. He drew the Uruguayan representative's attention to the fact that the Council itself did not study communications on the alleged violation of trade-union rights, but referred them to ILO, which had the necessary machinery. Moreover, alleged violations by States non-members of ILO were discussed only with the agreement of the governments concerned.

24. He would vote against the Egyptian draft resolution.

25. Mr. BIHIN (Belgium) pointed out that, until the work of drafting the two covenants on human rights was completed and a clear legal definition of human rights available the Commission on Human Rights would be unable deal with violations of those rights as it should. The effect of the Egyptian draft resolution was to confer on the Commission a quasi-judicial role which fell outside its terms of reference and which in practice it would be unable to play. Besides, if adopted, it might deceive the petitioners by giving them the false impression that by calling upon the Commission they would be addressing the competent organ and that effective action would be taken on their requests. The question was related to the implementation of the draft covenants, for which the Commission had not yet made provision. There was as yet no United Nations organ legally responsible for dealing with violations of human rights.

26. The Egyptian draft resolution was premature and he would vote against it.

27. Mr. JUVIGNY (France) said that he could not support the Egyptian draft resolution.

28. It was true that there was a growing recognition of the applicability of international law to the individual; when the ILO Fact-Finding and Conciliation Commission on Freedom of Association had been established, a certain type of petition had been provided for. But the establishment of a petitions procedure covering all human rights, and of a quasi-judicial process to deal with such petitions, was another matter. The word "serious" was not an adequate criterion on which to sift the mass of material which, if the draft resolution was adopted, would inundate the Commission.

29. The Egyptian representative had said that the Commission was composed of experts; but in practice its members were representatives of governments. The Commission was not authorized to perform the judicial functions of sifting petitions and evaluating governments' replies; nor was the Council authorized to attend to such communications as the Commission decided to transmit to it. Furthermore, the Commission had provided for the human rights committee in the draft covenants in order to take human rights out of the

sphere of politics. *A fortiori* the Commission itself should not assume judicial functions with regard to petitions.

30. According to the Egyptian representative, the Commission's dignity required that it should be able to take decisions. In line with the Council's latest decision not to act on General Assembly resolution 542 (VI) however, the Commission itself did not feel called upon to revise its machinery for dealing with communications concerning human rights.

31. While under existing political conditions respect for human rights could not be universally implemented, many of those rights had been internationally acknowledged, and the Commission's inability to deal with the communications in question gave no grounds for despair.

32. Mr. ENCINAS (Peru) expressed sympathy with the aims, but apprehension as to the consequences, of the Egyptian draft resolution. If it meant that the communications were to be transmitted only to the governments concerned, paragraph 1 of the operative part would make little change in existing procedure; if the expression meant the governments of all Member States, the financial and administrative problems involved would give rise to much opposition.

33. He would vote against the draft resolution, first because the volume of communications would swamp the Commission and the Council; secondly, because the transmission to governments of communications currently and traditionally treated as confidential would create international friction; thirdly, because such a provision would over-burden the draft covenants and force upon a non-legal organ the onus of taking judicial decisions based on no absolute standard; and, lastly, because administration of national justice, which could never be perfect but was a responsible function, would be impaired by the conferment upon the Commission of judicial functions without responsibility.

34. Mrs. AFNAN (Iraq) observed that the analysis of communications concerning violations of human rights given in paragraph 293 of the Commission's report (E/2447) contained obvious discrepancies. It seemed impossible that, if 1,352 out of 1,562 communications alleging political persecution related to one country, an accurate picture of world violation of human rights had been given; and the source and motivation of the complaints was not specified.

35. The Egyptian representative rightly found it inadequate that the Commission should confine itself to taking note of communications. But, since the Council could do no more than take note, she could not see how the transmission of communications to the Council would improve the situation.

36. Mrs. EMMET (United Kingdom) opposed the draft resolution on both constitutional and practical grounds. The Charter of the United Nations provided a right of petition only on trusteeship matters, and neither expressed nor implied any right on the part of the General Assembly or the Council to deal with communications on human rights. Council resolution 75 (V) clearly stated that the Commission had no power to take any action in regard to any complaints concerning human rights. If the United Nations were to assume additional powers in respect of communications it would be going beyond the competence of the Organization; and it was doubtful whether any delegation would permit its country to be arraigned before

any United Nations organ on any charge preferred by an individual, which might be irresponsible and which in any case was unverifiable.

37. The Commission would not be able to deal with the flood of communications which would result from adoption of the draft resolution without neglecting its other duties. "Seriousness" was no criterion. Every complaint of violation of human rights was serious and every complaint for which there was a *prima facie* case would have to be forwarded to governments. The Commission was not legally qualified to perform the sifting operation or to collect evidence, and the creation of special machinery to collect evidence was undesirable. For the Commission to make recommendations to governments in respect of communications would be a contravention of Article 2, paragraph 7, of the United Nations Charter.

38. Lastly, the system proposed would work fairly only if communications could be sent freely from all parts of the world; in practice they would be forthcoming in plenty from cranks and malcontents in the democratic countries, while from the totalitarian States, which were the greatest offenders in the matter of respect for human rights, there would be none at all.

39. Mr. AZMI (Egypt) said that he would not reply to his critics point by point, as a general answer would best serve the Committee's purposes. The strongest criticism had been that his draft resolution would entail infringement of Article 2, paragraph 7, of the Charter. If that criticism was valid, then the measures of implementation for the draft international covenants on human rights would also be an infringement of the domestic jurisdiction of States, and all the work of the Commission on Human Rights on the draft covenants would have been wasted, since the proposed human rights committee would lack jurisdiction. Yet without that committee the covenants would have no more binding force than the Universal Declaration of Human Rights.

40. The Afghan representative's main question had been whether the Egyptian draft resolution was simple; it was indeed, although simplicity did not necessarily imply ease of application.

41. Some questions had been raised about the effect of the transmission of the communications to governments. The effect would simply be that the knowledge that allegations of violations of human rights had been made would arouse public opinion against the governments impugned and any attempt to evade a satisfactory explanation would be noted and censured.

42. That the Commission on Human Rights would decide the seriousness of the allegations, not the persons who made them, should be obvious from the wording of the draft resolution. It was equally obvious that the governments to which the communications would be transmitted were only the governments concerned, not all governments. The Commission would not act as a kind of court and hand down judgments on the merits of the communications; it would merely screen them.

43. It had been asserted that his draft resolution went beyond the Commission's competence with regard to communications, as defined in Council resolutions 75 (V) and 192 A (VIII). It was true that the transmission of communications concerning human rights had so far been put into effect only in so far

as they related to the status of women; but that was no reason why it should not be extended to men also. There was no reason why the General Assembly should not nullify those Council resolutions and give the Commission new instructions.

44. Mr. JUVIGNY (France) said that he had not based his main criticism on Article 2, paragraph 7, of the Charter, but rather on the argument that the Commission on Human Rights lacked competence. The Charter did not apply directly to international instruments requiring signature and ratification. The Charter did not recognize the right of individuals to petition; but the proposed covenants, as international treaties, could perfectly well do so, since they were subject to ratification. On the other hand, a General Assembly resolution could be adopted only within the framework of the ratified Charter.

45. Mrs. TSALDARIS (Greece) observed that her delegation certainly believed that the procedure for dealing with communications concerning human rights could be improved, but the Egyptian draft resolution would not serve that purpose. It would be impossible to deal with the thousands of communications already received, let alone the thousands more that would come in if the draft resolution was adopted. No organ had as yet been established to deal with such communications; the Commission on Human Rights was neither competent nor independent, since it was composed of representatives of governments. Nor could it assume the responsibility for screening the communications for transmission to the Economic and Social Council. The prestige of the Commission and the United Nations should not be thus jeopardized.

46. She would vote against the Egyptian draft resolution.

47. Mrs. AFNAN (Iraq) pointed out that the questions she had asked had not constituted criticisms of the draft resolution; but she still saw no great use in the Commission's transmitting its findings to the Council. She wished to vote for part 1 of the operative paragraph and therefore asked that the two parts of the operative paragraph should be put to the vote separately.

48. Mr. HUIZI AGUIAR (Venezuela) said that, although he had been impressed by the Egyptian representative's generous intentions, he had been convinced of the serious practical difficulties and complications stressed by other speakers, and would therefore vote against the draft resolution.

49. Mr. JOUBLANC RIVAS (Mexico) observed that his delegation had always supported any proposal for the promotion of human rights, but he gravely doubted whether the Egyptian draft proposal would be effective.

50. Accordingly, he would abstain.

51. Mrs. PINTO DE VIDAL (Uruguay), replying to the Argentine representative, observed that she had not implied that the Economic and Social Council itself had assumed quasi-judicial powers in cases of infringement of trade-union rights, which it transmitted to ILO; she had simply meant that such machinery did exist in connexion with one form of human rights.

52. Mr. LOPEZ VILLAMIL (Honduras) said that he could not vote for the Egyptian draft resolution because it would entail an infringement of national sovereignty, the keystone of the American system. The draft resolution appeared on the surface to be merely

procedural, but the use of the word "allegations" might well lead to intervention in matters which were essentially within the domestic jurisdiction of States. Although he appreciated the noble sentiments which had motivated the submission of the draft resolution, he would vote against it.

53. Mr. P. CHENG (China) observed that the operative paragraph of the Egyptian draft resolution seemed inconsistent with usual United Nations procedure, since subsidiary organs did not communicate directly with governments. The words "request the Secretary-General to" should be added after the word "shall", and consequentially the word "and" should be added at the end of part 1 of the operative paragraph.

54. Mr. AZMI (Egypt) accepted those amendments.

55. The CHAIRMAN called for a vote on part 1 of the operative paragraph of the Egyptian draft resolution (A/C.3/L.368).

At the request of the representative of Afghanistan, a vote was taken by roll-call.

Guatemala, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Guatemala, India, Indonesia, Iraq, Liberia, Saudi Arabia, Uruguay, Yemen, Burma, Ecuador, Egypt.

Against: Honduras, Israel, Netherlands, New Zealand, Norway, Peru, Poland, Sweden, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Argentina, Australia, Belgium, Byelorussian Soviet Socialist Republic, Canada, Czechoslovakia, Denmark, France, Greece.

Abstaining: Iran, Mexico, Pakistan, Philippines, Yugoslavia, Afghanistan, Brazil, Chile, China, Colombia, Dominican Republic, Ethiopia.

That part was rejected by 26 votes to 11, with 12 abstentions.

56. The CHAIRMAN observed that, as a result of the vote, part 2 of the operative paragraph could be put to the vote only if the words "together with the replies or comments by governments" were deleted.

57. Mr. AZMI (Egypt) accepted that deletion.

58. Mr. BAROODY (Saudi Arabia) complained that the two parts of the operative paragraph formed an organic whole and even those who had voted for the first part would not know how to vote for the second thus mutilated.

59. Mr. PAZHAWAK (Afghanistan) said that the vote should certainly be taken on the second part; it still made sense.

At the request of the representative of Afghanistan, a vote was taken by roll-call.

Guatemala, having been drawn by lot by the Chairman, was called upon to vote first.

In favour: Guatemala, Iran, Liberia, Uruguay, Yemen, Afghanistan, Burma, Ecuador, Egypt.

Against: Honduras, Israel, Netherlands, New Zealand, Norway, Peru, Poland, Sweden, Thailand, Turkey, Ukrainian Soviet Socialist Republic, Union of South Africa, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Venezuela, Argentina, Australia, Belgium, Byelorussian Soviet Socialist Republic, Canada, Cuba, Czechoslovakia, Denmark, France, Greece.

Abstaining: India, Indonesia, Iraq, Mexico, Pakistan, Philippines, Yugoslavia, Brazil, Chile, China, Colombia, Dominican Republic, Ethiopia.

That part was rejected by 26 votes to 9, with 13 abstentions.

60. The CHAIRMAN observed that the rejection of the operative part of the Egyptian draft resolution (A/C.3/L.368) implied that it had been rejected as a whole.

61. Mr. BAROODY (Saudi Arabia) explained that he had not voted on part 2 of the operative paragraph because he had not had time to study the implications of the truncated text.

62. Mr. SHAH (Pakistan) explained that he had abstained on both parts of the paragraph because he had believed the Egyptian draft resolution, lofty as might be its motives, to be over-ambitious and impracticable. The Egyptian representative was too optimistic in believing that halting offending governments before the bar of public opinion would be effective; there were forces stronger than public opinion.

The meeting rose at 5.50 p.m.