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INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Report of the Third CommitteeRapporteur: Mr. Carles CASAJUANA (Spain)

I. INTRODUCTION

1. At its 3rd plenary meeting, on 23 September 1988, the General Assembly, on the recommendation of the General Committee, decided to include in its agenda the item entitled "International Covenants on Human Rights" and to allocate it to the Third Committee.

2. The Third Committee considered the item jointly with items 97, 98, 99, 101 and 106 at its 39th to 43rd, 46th, 51st, 55th and 57th meetings, on 10, 11, 14, 15, 17, 23, 28 and 30 November 1988. An account of the Committee's discussion is contained in the relevant summary records (A/C.3/43/SR.39-43, 46, 51, 55 and 57).

3. For its consideration of the item, the Committee had before it the following documents:

(a) Report of the Economic and Social Council for the year 1988, chapter III, section D (A/43/3); 1/

(b) Report of the Human Rights Committee (A/43/40); 2/

1/ To be issued as Official Records of the General Assembly, Forty-third Session, Supplement No. 3 (A/43/3/Rev.1).

2/ Official Records of the General Assembly, Forty-third Session, Supplement No. 40.

(c) Report of the Secretary-General on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights (A/43/518);

(d) Letter dated 14 December 1987 from the Permanent Representative of Denmark to the United Nations addressed to the Secretary-General (A/43/56);

(e) Letter dated 6 April 1988 from the Permanent Representative of Afghanistan to the United Nations addressed to the Secretary-General (A/43/290-S/19744);

(f) Letter dated 6 April 1988 from the Permanent Representative of Afghanistan to the United Nations addressed to the Secretary-General (A/43/291-S/19745);

(g) Letter dated 19 May 1988 from the Chargé d'affaires a.i. of the Permanent Mission of Viet Nam to the United Nations addressed to the Secretary-General (A/43/371-S/19894).

4. At the 39th meeting, on 10 November, the Under-Secretary-General for Human Rights made an introductory statement.

II. CONSIDERATION OF PROPOSALS

A. Draft resolution A/C.3/43/L.44

5. At the 46th meeting, on 17 November, the representative of the German Democratic Republic, on behalf of Bulgaria, the Byelorussian Soviet Socialist Republic, the German Democratic Republic, Hungary, Mongolia, Nicaragua and the Syrian Arab Republic, introduced a draft resolution (A/C.3/43/L.44) entitled "Indivisibility and interdependence of economic, social, cultural, civil and political rights".

6. At its 51st meeting, on 23 November, following a statement in explanation of vote before the vote by the representative of Greece (on behalf of the States Members of the United Nations that are members of the European Economic Community), the Committee took the following action on the draft resolution:

(a) The eighth preambular paragraph was adopted by a recorded vote of 109 to 7, with 17 abstentions. The voting was as follows:

In favour: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, Chile, China, Colombia, Congo, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador,

Ethiopia, Fiji, German Democratic Republic, Ghana, Guatemala, Guinea, Guyana, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Togo, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: Belgium, France, Germany, Federal Republic of, Luxembourg, Netherlands, United Kingdom of Great Britain and Northern Ireland, United States of America.

Abstaining: Austria, Canada, Denmark, Dominica, Finland, Greece, Iceland, Ireland, Israel, Italy, Japan, New Zealand, Norway, Portugal, Spain, Swaziland, Sweden.

(b) Draft resolution A/C.3/43/L.44, as a whole, was adopted by a recorded vote of 111 to 1, with 23 abstentions (see para. 18, draft resolution I). The voting was as follows:

In favour: Afghanistan, Algeria, Angola, Argentina, Australia, Bahamas, Bahrain, Bangladesh, Barbados, Belize, Bhutan, Bolivia, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Central African Republic, Chad, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic Yemen, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Fiji, Gabon, German Democratic Republic, Ghana, Guatemala, Guinea, Guyana, Honduras, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Jamaica, Jordan, Kenya, Kuwait, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Madagascar, Malawi, Malaysia, Maldives, Mali, Mauritania, Mexico, Mongolia, Morocco, Nepal, New Zealand, Nicaragua, Niger, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Qatar, Romania, Rwanda, Sao Tome and Principe, Saudi Arabia, Senegal, Sierra Leone, Singapore, Somalia, Sri Lanka, Sudan, Suriname, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Emirates, United Republic of Tanzania, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe.

Against: United States of America.

Abstaining: Austria, Belgium, Canada, Chile, Denmark, Finland, France, Germany, Federal Republic of, Greece, Iceland, Ireland, Israel, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Spain, Swasiland, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland.

7. After the adoption of the draft resolution, statements in explanation of vote were made by the representatives of Japan and Chile.

B. Draft resolution A/C.3/43/L.54

8. At the 46th meeting, on 17 November, the representative of Denmark, on behalf of Australia, Bulgaria, Canada, Costa Rica, Cyprus, Denmark, Ecuador, Finland, Hungary, Iceland, Italy, the Netherlands, Norway, Peru, Spain, Sweden, the Union of Soviet Socialist Republics and the United Kingdom of Great Britain and Northern Ireland, introduced a draft resolution (A/C.3/43/L.54) entitled "International Covenants on Human Rights".

9. At the 51st meeting, on 23 November, the representative of Denmark, on behalf of the sponsors, orally revised operative paragraph 11 of the draft resolution by adding the words "rights and" before "principles contained".

10. At the same meeting, the representative of Egypt introduced oral amendments to the draft resolution (subsequently circulated in document A/C.3/43/L.84), by which:

(a) A new operative paragraph would be inserted after operative paragraph 12, reading:

"Emphasizes the sovereign right of all States when acceding to any treaty or convention to make any reservations in accordance with the Vienna Convention on the Law of Treaties";

(b) In operative paragraph 13, the words "to review" would be replaced by "to consider reviewing".

11. Statements were made by the representatives of Sweden, Tunisia, Austria, Iraq, Pakistan, the United States of America, Algeria and Morocco.

12. At the 55th meeting, on 28 November, the representative of Denmark, on behalf of the sponsors, orally revised the draft resolution as follows:

Operative paragraph 13, which had read:

"Appeals to States parties to review whether any reservation made in respect of the provisions of the international Covenants on Human Rights should be upheld"

would be changed to read:

"Recognises the right of States to make reservations in accordance with relevant rules of international law and appeals to States parties to review whether any reservation made in respect of the provisions of the international Covenants on Human Rights should be upheld".

13. Statements were made by the representatives of India, the Sudan, Sweden, Morocco, Egypt and Algeria.

14. At the 57th meeting, on 30 November, the representative of Denmark, on behalf of the sponsors of the draft resolution orally introduced a further revision of operative paragraph 13 by replacing it with the following text:

"Appeals to States parties to the Covenants that have exercised their sovereign right to make reservations in accordance with relevant rules of international law to consider whether any such reservation should be reviewed,".

15. At the same meeting, in the light of this revision, the Committee agreed not to take action on the amendments contained in document A/C.3/43/L.84.

16. At the same meeting, draft resolution A/C.3/43/L.54, as orally revised, was adopted without a vote (see para. 18, draft resolution II).

17. After the draft resolution was adopted, the representative of the Sudan made a statement in explanation of position.

III. RECOMMENDATIONS OF THE THIRD COMMITTEE

18. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

DRAFT RESOLUTION I

Indivisibility and interdependence of economic, social, cultural, civil and political rights

The General Assembly,

Mindful of the obligations of States under the Charter of the United Nations to promote social progress and better standards of life in larger freedom and universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language or religion,

Noting the Universal Declaration of Human Rights, 3/ the International Covenant on Civil and Political Rights, 4/ the International Covenant on Economic, Social and Cultural Rights 4/ and the Declaration on Social Progress and Development, 5/

Recalling that in the preambles to the International Covenants on Human Rights 4/ it is recognized that the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby persons may enjoy their economic, social and cultural rights as well as their civil and political rights,

Recalling its resolutions 40/114 of 13 December 1985, 41/117 of 4 December 1986 and 42/102 of 7 December 1987,

Reaffirming the provisions of its resolution 32/130 of 16 December 1977 that all human rights and fundamental freedoms are indivisible and interdependent and that the promotion and protection of one category of rights can never exempt or excuse States from the promotion and protection of the other rights,

Convinced that equal attention and urgent consideration should be given to the implementation, promotion and protection of economic, social, cultural, civil and political rights,

Desirous of removing all obstacles to the full realization of human rights, in particular colonialism, neo-colonialism, racism, racial discrimination in all its forms, apartheid, foreign intervention, occupation, aggression and domination,

Recognizing the fundamental rights of every people to exercise full sovereignty over its natural wealth and resources,

Reaffirming that there is a close and multidimensional relationship between disarmament and development, that progress in disarmament would considerably promote progress in development and that resources released through disarmament measures could contribute to the economic and social development and well-being of all peoples, in particular those of the developing countries,

Recognizing that the realization of the right to development may help to promote the enjoyment of all human rights and fundamental freedoms,

3/ Resolution 217 A (III).

4/ See resolution 2200 A (XXI), annex.

5/ Resolution 2542 (XXIV).

Recalling Commission on Human Rights resolutions 1985/42 of 14 March 1985, 6/ 1986/15 of 10 March 1986, 7/ 1987/19 and 1987/20 of 10 March 1987 8/ and 1988/22 and 1988/23 of 7 March 1988, 9/ in which the Commission stated that the implementation, promotion and protection of economic, social and cultural rights have not received sufficient attention within the framework of the United Nations system,

Requesting the Secretary-General to enhance his efforts under the programme of advisory services to States in the implementation, promotion and protection of the human rights and fundamental freedoms set forth in the International Covenants on Human Rights and other United Nations instruments in the field of human rights,

1. Notes the essential importance of national efforts and international co-operation to achieve the full and effective realization of all human rights recognized in the International Covenants on Human Rights and other international instruments;

2. Appeals to all States to pursue policies directed towards the implementation, promotion and protection of economic, social, cultural, civil and political rights recognized in the International Covenants on Human Rights and other international instruments;

3. Requests the Commission on Human Rights to give more attention to the realization of economic, social and cultural rights under the relevant agenda items;

4. Urges the Secretary-General to take determined steps, within existing resources, to give publicity to the Human Rights Committee and to the Committee on Economic, Social and Cultural Rights and to ensure that they receive full administrative support in order to enable them to discharge their functions effectively;

5. Affirms the importance and relevance, to programmes and activities being undertaken throughout the United Nations system in the field of human rights, of reports submitted by States parties to the International Covenants on Human Rights to the Human Rights Committee and the Committee on Economic, Social and Cultural Rights;

6/ Official Records of the Economic and Social Council, 1985, Supplement No. 2 (E/1985/22), chap. II, sect. A.

7/ Ibid., 1986, Supplement No. 2 (E/1986/22), chap. II, sect. A.

8/ Ibid., 1987, Supplement No. 5 (E/1987/18 and Corr.1 and 2), chap. II, sect. A.

9/ Ibid., 1988, Supplement No. 2 (E/1988/12), chap. II, sect. A.

6. Decides to consider the question of the indivisibility and interdependence of economic, social, cultural, civil and political rights at its forty-fourth session under the item entitled "International Covenants on Human Rights".

DRAFT RESOLUTION II

International Covenants on Human Rights

The General Assembly,

Recalling its resolutions 33/51 of 14 December 1978, 34/45 of 23 November 1979, 35/132 of 11 December 1980, 36/58 of 25 November 1981, 37/191 of 18 December 1982, 38/116 and 38/117 of 16 December 1983, 39/136 and 39/138 of 14 December 1984, 40/115 and 40/116 of 13 December 1985, 41/32 of 3 November 1986, 41/119 and 41/121 of 4 December 1986 and 42/103 and 42/105 of 7 December 1987,

Taking note of the report of the Secretary-General 10/ on the status of the International Covenant on Economic, Social and Cultural Rights, 4/ the International Covenant on Civil and Political Rights, 4/ and the Optional Protocol to the International Covenant on Civil and Political Rights, 4/

Recalling the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and reaffirming that all human rights and fundamental freedoms are indivisible and interrelated and that the promotion and protection of one category of rights should never exempt or excuse States from the promotion and protection of the other,

Recognizing the important role of the Human Rights Committee in the implementation of the International Covenant on Civil and Political Rights and the Optional Protocol thereto,

Also recognizing the important role of the Committee on Economic, Social and Cultural Rights in the implementation of the International Covenant on Economic, Social and Cultural Rights,

Bearing in mind the important responsibilities of the Economic and Social Council in relation to the International Covenants on Human Rights,

10/ A/43/518.

Welcoming the submission to the General Assembly of the annual report of the Human Rights Committee 11/ and the report of the Committee on Economic, Social and Cultural Rights on its second session, 12/

Considering that the effective functioning of treaty bodies established in accordance with the relevant provisions of international instruments on human rights plays a fundamental role and hence represents an important continuing concern of the United Nations,

Noting with concern the critical situation with regard to overdue reports from States parties to the International Covenants on Human Rights,

Taking note with appreciation of the results of the meeting of chairpersons of human rights treaty bodies, held at Geneva from 10 to 14 October 1988, 13/

Bearing in mind that the year 1988 is the fortieth anniversary of the Universal Declaration of Human Rights, 3/

1. Takes note with appreciation of the report of the Human Rights Committee on its thirty-first, thirty-second and thirty-third sessions, 11/ including the suggestions and recommendations of a general nature approved by the Committee;

2. Also takes note with appreciation of the report of the Committee on Economic, Social and Cultural Rights, including its suggestions and recommendations;

3. Expresses its satisfaction with the serious and constructive manner in which both Committees are undertaking their function;

4. Expresses its appreciation to the States parties to the International Covenant on Civil and Political Rights that have submitted their reports to the Human Rights Committee under article 40 of the Covenant and urges States parties that have not yet done so to submit their reports as speedily as possible;

5. Urges those States parties to the International Covenant on Civil and Political Rights that have been requested by the Human Rights Committee to provide additional information to comply with that request;

11/ Official Records of the General Assembly, Forty-third Session, Supplement No. 40 (A/43/40).

12/ Official Records of the Economic and Social Council, 1988, Supplement No. 4 (E/1988/14).

13/ See HRI/MC/1988/CRP.1

6. Commends the States parties to the International Covenant on Economic, Social and Cultural Rights that have submitted their reports under article 16 of the Covenant and urges States parties that have not yet done so to submit their reports as soon as possible;

7. Notes with satisfaction that the majority of States parties to the International Covenant on Civil and Political Rights and an increasing number of States parties to the International Covenant on Economic, Social and Cultural Rights have been represented by experts in the presentation of their reports, thereby assisting the respective monitoring bodies in their work, and hopes that all States parties to both Covenants will arrange such representation in the future;

8. Again urges all States that have not yet done so to become parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights, and to consider acceding to the Optional Protocol to the International Covenant on Civil and Political Rights;

9. Invites the States parties to the International Covenant on Civil and Political Rights to consider making the declaration provided for in article 41 of the Covenant;

10. Emphasizes the importance of the strictest compliance by States parties with their obligations under the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights and, where applicable, the Optional Protocol to the International Covenant on Civil and Political Rights;

11. Calls upon all States parties to the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights to adhere fully to these two Covenants and to all the rights and principles contained therein;

12. Stresses the importance of avoiding the erosion of human rights by derogation, and underlines the necessity of strict observance of the agreed conditions and procedures for derogation under article 4 of the International Covenant on Civil and Political Rights, bearing in mind the need for States parties to provide the fullest possible information during states of emergency, so that the justification for and appropriateness of measures taken in these circumstances can be assessed;

13. Appeals to States parties to the Covenants that have exercised their sovereign right to make reservations in accordance with relevant rules of international law to consider whether any such reservation should be reviewed;

14. Urges States parties to pay active attention to the protection and promotion of civil and political rights, as well as economic, social and cultural rights;

15. Urges States parties to the International Covenant on Economic, Social and Cultural Rights, the specialized agencies and other relevant United Nations bodies to extend their full support and co-operation to the Committee on Economic, Social and Cultural Rights;

16. Requests the Secretary-General to keep the Human Rights Committee and the Committee on Economic, Social and Cultural Rights informed of the relevant activities of the General Assembly, the Economic and Social Council, the Commission on Human Rights, the Commission on the Status of Women, the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Committee on the Elimination of Racial Discrimination, the Committee on the Elimination of Discrimination against Women, the Committee against Torture and, where appropriate, other functional commissions of the Economic and Social Council and the specialized agencies, and also to transmit the annual reports of the Human Rights Committee and the Committee on Economic, Social and Cultural Rights to those bodies;

17. Requests the Secretary-General to submit to the General Assembly at its forty-fourth session a report on the status of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights;

18. Also requests the Secretary-General, within existing resources, to ensure that the Human Rights Committee and the Committee on Economic, Social and Cultural Rights are able to hold the necessary sessions and are provided with administrative support and summary records;

19. Further requests the Secretary-General to ensure that the Centre for Human Rights of the Secretariat effectively assists the Human Rights Committee and the Committee on Economic, Social and Cultural Rights in the implementation of their respective mandates;

20. Again urges the Secretary-General, taking into account the suggestions of the Human Rights Committee, to take determined steps, within existing resources, to give more publicity to the work of the Committee and, similarly, to the work of the Committee on Economic, Social and Cultural Rights;

21. Encourages all Governments to publish the texts of the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights and the Optional Protocol to the International Covenant on Civil and Political Rights in as many languages as possible and to distribute them and make them known as widely as possible in their territories.
