



**Monday, 17 October 1955,
at 10.45 a.m.**

New York

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Chairman: Mr. Omar LOUTFI (Egypt).

AGENDA ITEM 28

Draft International Covenants on Human Rights (E/2573, annexes I, II and III, A/2907 and Add. 1 and 2, A/2910 and Add.1 to 5, A/2929, A/2943, chapter VI, section I, A/C.3/L.460 and Corr.1, A/C.3/L.466) (continued)

STATEMENT BY THE SECRETARY-GENERAL

1. The SECRETARY-GENERAL said that after a careful examination of the summary records of the Committee's discussions, he had found no difference of opinion on what was, and should be, the common objective. As Secretary-General he sincerely endorsed the self-determination of peoples, which the authors of the Charter had listed as one of the purposes of the United Nations. The members of the Committee were acquainted with his ideas on the subject, and he was sure that they would find, by re-reading his report to the General Assembly (A/2911) and his statement of 11 October (A/C.3/L.466), setting aside the debates in the Committee, that they had been strongly reaffirmed. There appeared to be some difference of opinion concerning the best means of promoting self-determination speedily and over the widest possible field. The Secretary-General had provided a preliminary outline of his views on that subject, but had made no proposals. It would probably be advisable for him to give his views in detail in order to dispel misunderstanding, but he felt that such an explanation would be more useful at a later stage of the debate. He would of course be glad to help the Committee whenever it wished, and he hoped that its deliberations would prove fruitful.

2. Mr. LANNUNG (Denmark) requested that the text of the Secretary-General's statement be distributed to the members of the Committee.¹

GENERAL DISCUSSION

3. The CHAIRMAN pointed out that the procedure to be followed in discussing the draft International Covenants on Human Rights (E/2573, annex I) must be in accordance with the decisions taken by the Committee at its previous meeting.

¹ The text of the statement of the Secretary-General was subsequently issued as document A/C.3/L.472.

Preamble

4. Mr. MOROZOV (Union of Soviet Socialist Republics) suggested that, since no delegation had expressed a desire to speak, the conclusion must be that no one had any observations to make on the preamble to the two draft covenants; in that case it would be enough to put them to the vote and proceed with the next part.

5. Mr. PAZHWAK (Afghanistan) said he shared the opinion of the representative of the Soviet Union. If no representative asked to speak and if no amendment was proposed, perhaps it could be taken that the Committee was in agreement on the preamble. The Afghan delegation, however, would prefer that they should not be put to the vote immediately, since discussion of the articles might lead to amendments to the preamble, for example, if new articles were adopted. The Committee might therefore consider that it had discussed the preamble, but refrain from putting it to the vote until after it had discussed the articles. It could proceed immediately with the discussion of article I, which was identical in the two draft covenants.

6. Mr. HOARE (United Kingdom) recalled that he himself had asked several times, and on similar general grounds, that consideration of and voting on the preamble should be left till the end. He was therefore glad to have the soundness of the contention put forward by his own and other delegations confirmed by the representative of Afghanistan in the statement he had just made. Since, however, the Committee had the preamble before it, he would like to point out that an amendment had been proposed by Brazil.²

7. Mr. MOROZOV (Union of Soviet Socialist Republics), speaking on a point of order, said that, to begin with, he would like to see some agreement as to the proposals to be taken into account in the current discussion. He asked whether all the proposals submitted at the ninth session and since then must be treated as formal proposals, or only those submitted at the current session. If all the proposals and suggestions that had so far been made had to be taken into account, the situation would be very complicated, for there were very many such proposals and their authors did not attach the same importance to all of them. Moreover, most of them were not really proposals but preliminary observations. The Soviet delegation was therefore of the opinion that it was necessary to decide immediately how proposals made before the current session were to be treated. Its own view was that it would be best to follow the customary procedure and consider, at that stage, only proposals formally submitted at the current session. If that view was accepted, it would be found that no

² Official Records of the General Assembly, Ninth Session, Annexes, agenda item 58, document A/C.3/L.412 (incorporated in A/2808 and Corr.1, para. 41).

formal proposal had been submitted on the subject of the preamble.

8. The CHAIRMAN agreed with the representative of the Soviet Union. The only proposals to be discussed should be those which had been submitted formally. So far as the Brazilian amendment was concerned, it could be considered either at the express request of its author, or at the request of the United Kingdom representative if he sponsored it.

9. Mr. BARODY (Saudi Arabia) supported the view expressed by the Chairman. Not all the suggestions appearing in the working paper prepared by the Secretary-General (A/C.3/L.460 and Corr.1) could be regarded as formal proposals, for the position of some Governments might have changed since that document was prepared while others might have new proposals to make. That being so, only proposals formally submitted at the current session should be treated as valid; all the representative of Brazil had to do was to state immediately whether he maintained or withdrew his amendment.

10. Mr. HOOD (Australia) said he did not understand how at that juncture there could be any question of formal proposals of amendments or of any vote on such proposals. The current stage of the Committee's work was governed, first, by the decisions taken at the 636th meeting and, secondly, by General Assembly resolution 833 (IX). It was clear from those two decisions, and especially from paragraph 4 of resolution 833 (IX), that the current stage must be devoted to discussion of the draft covenants, and nothing more. Consequently, while it might be true that the working paper prepared by the Secretary-General (A/C.3/L.460 and Corr.1) did not contain any formal proposals, it was also true that the time had not yet come to discuss such proposals and still less to think of adopting them.

11. Mr. HOARE (United Kingdom) thought the representative of the Soviet Union had been right in raising the question of procedure. He recalled that in resolution 833 (IX) the General Assembly had invited Governments to communicate to the Secretary-General any amendments or additions to the draft covenants or any observations thereon. Some Governments had merely made observations, but others had submitted formal amendments and there was a strong presumption that they wished to support them. That being so, the Chairman might simply ask those delegations as, or just before, the relevant provisions came up for discussion, whether they maintained their amendments. Those wishing to maintain the amendments set out in the working paper would merely say so. Those which had changed their view would either withdraw them or, if they wished to modify them, would present their new proposals, which would be distributed to the members in separate documents.

12. The CHAIRMAN asked the representative of Brazil whether he maintained his amendment as it appeared in the working paper (A/C.3/L.460 and Corr.1).

13. Mr. FERREIRA DE SOUZA (Brazil) said he did and added that his delegation was prepared to re-submit the amendment formally.

14. The CHAIRMAN observed that the Brazilian amendment was now a formal proposal.

15. Mr. PAZHAWAK (Afghanistan) pointed out that, as it stood in the working paper (A/C.3/L.460 and Corr.1), the Brazilian amendment remained what

it had been when presented at the ninth session, a mere suggestion. It was not therefore a formal proposal. The working paper contained observations by various Governments at a particular time and stage. To regard those observations as formal proposals would be tantamount to preventing Governments from changing their minds, as they were perfectly entitled to do. The situation was therefore clear: it was not even necessary for the Chairman to ask delegations their intentions regarding the observations they had made. Each delegation must itself announce whether it wished to make a formal proposal of views it had expressed before the current session, failing which, those views would continue to be mere suggestions.

16. As matters stood, the Afghan delegation was glad to note that no formal proposal had been made on the preamble. It proposed that the Committee should regard that part of the draft covenants as already discussed and proceed to consider article 1.

17. The CHAIRMAN observed that there was some misunderstanding with regard to the Brazilian proposal. The fact was that it should now be regarded as a formal proposal, since the delegation had announced that such was its wish. There was no need for the proposal to be re-distributed as a separate document since it already appeared in the working paper prepared by the Secretary-General.

18. He then read out paragraph 2 (c) of resolution 833 (IX) to show that the document had been prepared at the express request of the General Assembly, to be used as a working paper. Consequently, in view of the confirmation which the Brazilian representative had just given, the Committee was officially seized of the Brazilian amendment.

19. Mr. NAJAR (Israel) thanked the Chairman for his explanations. The question of procedure was easily settled by the terms of General Assembly resolution 833 (IX), under which the Committee had before it, on the one hand the text of the draft covenants and, on the other, the observations submitted by Governments. The proposals accompanying those observations were valid. Delegations could of course withdraw them but unless they did so the proposals in the working paper were already before the Committee and there was no need for their authors to re-submit them.

20. Mr. AZKOUL (Lebanon) said that he would like some explanation of the procedure just proposed by the Afghan representative. He wondered whether that representative thought that the Committee might defer voting on the preamble until it had considered the articles of the draft covenants and whether, if the Committee agreed to that idea, his suggestion would apply to the actual articles of the draft covenants; in other words, whether, having reserved its decision on the preamble, the Committee would do the same after discussing article 1.

21. Mr. PAZHAWAK (Afghanistan) explained that the main purpose of his suggestion was to make it possible to cover any new articles which might be included in the draft covenants. The procedure was a mere suggestion by his delegation and not a formal proposal.

22. Mr. BARODY (Saudi Arabia) remarked that there was no point in holding a new procedural discussion. The Committee should decide without delay whether or not to vote on the amendments before it. Whatever its decision, the Committee should keep in mind the General Assembly's recommendation (resolu-

tion 833 (IX)) that the Third Committee should give priority to discussion of the draft covenants "with a view to their adoption at the earliest possible date". The question of priority being settled, the Committee should not merely discuss the draft covenants but should endeavour to adopt them as soon as possible. His delegation had no desire to rush things but it would be glad to see the Commission's work move more swiftly towards a successful conclusion. Accordingly, if the Committee could not only discuss the various parts of the draft covenants but also vote on them, there was no reason why it should not do so, especially if voting seemed a practical means of reaching the desired end.

23. Mr. ABDEL-GHANI (Egypt) asked the Secretariat for some particulars concerning the working paper (A/C.3/L.460 and Corr.1), which was presented as a compilation of amendments, suggestions and observations submitted by Governments. As far as he could recall, when the Brazilian representative had submitted his amendments at the ninth session of the General Assembly, some delegations had expressed views running counter to his proposal. He could find no trace of their observations in the working paper, however, and he wondered why they had been left out.

24. Mr. HUMPHREY (Secretariat), replying to the Egyptian representative, said that the observations in question had been included in the report submitted by the Third Committee to the General Assembly at its ninth session on item 58 of its agenda.⁸ The observations were not repeated in the working paper (A/C.3/L.460 and Corr.1) because the latter, in pursuance of resolution 833 (IX), did no more than reproduce amendments and proposed new articles.

25. Mr. ABDEL-GHANI (Egypt) thanked Mr. Humphrey and said he would like the observations in question to be reproduced and distributed to delegations.

26. The CHAIRMAN replied that note would be taken of the request.

27. Mr. CHENG (China) inquired whether the procedure suggested by the Afghan representative would apply also to the articles of the draft covenants.

28. Mr. PAZHWAQ (Afghanistan) withdrew his suggestion in order to avoid further discussion.

29. Mr. VELANDO (Peru) thought that the Committee could study the preambles and relevant amendments forthwith and wait until the end of the discussion before putting them to the vote.

30. Miss BERNARDINO (Dominican Republic) did not think it would be wise to take a decision immediately, in view of the historic importance of the text of the preamble. She reminded the Committee that at its third session in 1948 the General Assembly had not adopted the preamble to the Universal Declaration of Human Rights until it had decided on the text of the articles.

31. Mr. RODRIGUEZ FABREGAT (Uruguay) agreed with the representative of the Dominican Republic. He said it would be useful to know whether the Brazilian representative's amendment was merely an addendum to the preamble or whether it would also involve deletion of the provisions relating to the right of peoples to self-determination from the body of the covenants. A preamble, it must be conceded, was

generally regarded as an introductory section enumerating principles which foreshadowed in broad outline the concrete provisions of the various articles which followed. His delegation felt that if, as was feasible and perhaps even desirable, the right to self-determination was enunciated in the preamble, a provision regarding that right must be included in the substantive articles. Otherwise, the essential balance between the preamble and the substantive articles would be lost and a positive obligation withdrawn from the draft covenants, to be replaced by a declaration of principle.

32. Mr. FERREIRA DE SOUZA (Brazil) said that his delegation's amendment had been submitted at the ninth session in a spirit of compromise and had no bearing on the text of article 1, on which the Committee would have to decide after adopting the preamble.

33. Mr. BAROODY (Saudi Arabia) pointed out that, according to information in the working paper (A/C.3/L.460 and Corr.1), the Brazilian delegation had proposed the deletion of article 1.

34. The preamble, incidentally, was drafted in very general terms; far from mentioning any specific right or group of rights, it merely referred, in the last paragraph, to "the rights recognized" in the covenants, the list of which could be lengthened or shortened without necessarily entailing any amendment of the preamble. Thus there was nothing to prevent the Committee's considering the preamble forthwith.

35. Mr. HIMIOB (Venezuela) reserved his delegation's right to give its views on the Brazilian amendment later. In connexion with the first paragraph of the preamble, he would like to know whether the phrase "the principles proclaimed in the Charter of the United Nations" was to be taken to cover the principles enunciated in Article 2 of the Charter only or the purposes described in Article 1 as well. Finally, in connexion with the fourth paragraph of the preamble, it was a pertinent question whether a non-member State ratifying the covenants would be bound by the obligation of States under the Charter or only by the provisions of the covenants.

36. Mr. URQUIA (El Salvador) said that the authors of the proposal (A/C.3/L.470/Rev.1) adopted by the committee (636th meeting) had clearly been of the opinion that the study of the preambles and articles would in each case be followed by a decision. There was no doubt that, if the Committee wished to produce a final draft, it must approve or reject its various parts after having considered them.

37. The proposals in the working paper (A/C.3/L.460 and Corr.1) were before the Committee only if the delegations which had submitted them decided to maintain them. It would help to save time if the Secretariat could ascertain which of the proposals were still valid.

38. Regarding the Venezuelan representative's first question, it must be pointed out that the authors of the draft covenants had sought to establish a link between the general declaration of principle in the first paragraph of the preamble and the need to respect the basic rights and freedoms of the individual, on which the United Nations had always laid great stress. There was no reference to the Charter in the corresponding provision of the Universal Declaration of Human Rights, the first paragraph of the preamble of which was identical with that of the draft covenants, except

⁸ *Ibid.*, document A/C.3/L.427 (incorporated in A/2808 and Corr.1, para. 42).

that it did not include the phrase "in accordance with the principles proclaimed in the Charter of the United Nations". Clearly, the word "principles" must be understood to cover also the purposes enunciated in the Charter, the authors having merely wished to stress by their choice of that word that the principles were more important than the purposes.

39. In framing the fourth paragraph of the preamble, the authors had also sought to bring out the importance of the part played by the United Nations both in elaborating the draft covenants and in the field of human rights. In any case, it was evident that a non-member State signing and ratifying the covenants would be bound by the provisions of the covenants and not by those of the Charter, just as a Member State would be bound to respect the provisions of a particular article, not because it had signed the Charter but because it was a party to the covenants. That did not alter the fact that the covenants were based on the Charter.

40. There were two objections to the Brazilian amendment. The first was a legal objection arising from the fact that at its sixth session the General Assembly had decided (resolution 545 (VI)) to include in the covenants an article on the right of peoples to self-determination; it was difficult to go back on that decision at the current stage. The second was an objection of substance which had been raised by the Uruguayan representative. The right of peoples to self-determination was perhaps one of the most important rights. To insert it in the preamble instead of making it one of the operative provisions was to rob it of all its mandatory force and turn it into a mere pious wish. He would therefore be unable to vote in favour of the Brazilian amendment.

41. He saw no reason why the Committee should not adopt the text of the preamble as it stood, expressly reserving the right to make additions in due course, and why it should not examine the Brazilian amendment in connexion with the study of article 1.

42. Mr. ROY (Haiti) found it somewhat surprising that the Brazilian representative should wish to keep the amendment to the preamble without proposing the deletion of article 1. As was pointed out in the working paper prepared by the Secretary-General (A/C.3/L.460 and Corr.1), the two proposals were closely linked. The delegation of Haiti was unable to consider the amendment to the preamble without reference to the amendments to article 1, which in essence removed from the body of the covenants proper the recognition of the right of peoples to self-determination. Since his delegation regarded the proclamation of that right in the covenants as vital, it had no alternative but to vote against the text proposed by Brazil.

43. He had no objection, however, to the suggestion made by several representatives that there should be a short statement in the preamble of general principles regarding the right to self-determination.

44. Mr. FERREIRA DE SOUZA (Brazil), explaining the point of his Government's proposals for the benefit of the previous speakers, said that its intention in putting forward the amendments was not in any way to minimize the importance of the right of peoples to self-determination. Accordingly, it would be wrong to assume that if the amendments were adopted, the right to self-determination would no longer be mentioned except in the preamble. Brazil had in mind a draft protocol to be annexed to the covenants embody-

ing the essential principles at present proclaimed in article 1.

45. Mr. NAJAR (Israel), pointed out that, in view of the nature of the Brazilian amendment, the Committee could hardly help discussing the questions of substance raised by article 1 along with the preamble. In the course of the discussions, which were more in the nature of negotiations, the attitude to be adopted by delegations would determine their vote both on the various paragraphs of the preamble and on part I of the two draft covenants.

46. Mr. MOROZOV (Union of Soviet Socialist Republics) was glad to note that in proposing amendments to the preamble and part I of the two draft covenants the Brazilian Government had not intended to challenge the fundamental importance of the right to self-determination, as recognized by the authors of the draft covenants. The fact remained that, whatever the intentions of the Brazilian Government, the proposal implied the deletion of the articles proclaiming the right of peoples to self-determination. There was no question whatever that the proposal, which in principle referred only to the preambles, was indeed closely linked to the amendments, which expressly provided for the deletion of article 1 of both drafts. The two amendments could not be separated; consequently the Soviet Union delegation could not see its way to subscribe to them, since it felt that article 1 of both covenants should be maintained at all costs.

47. His delegation agreed with the Brazilian delegation that it would be useful to have a reference in the preamble to the right of self-determination. The text of the preamble had been adopted before the provisions on the right of peoples to self-determination had been inserted in the draft covenants and therefore made no mention of that right. In any case, he did not think it would be wise to proclaim the right of self-determination in the manner envisaged by Brazil. Since the amendment used almost the same terms as those used in article 1, if the Committee adopted article 1, and at the same time accepted the Brazilian amendment to the preamble, the result would be a ponderous, stilted and repetitious text. Surely it would be better to refer to the right of peoples to self-determination only in general terms in the preamble, without being specific.

48. He felt, therefore, that the Committee should not take a decision either on the Brazilian amendments or generally speaking, on the preamble, until it had decided on the text of article 1.

49. The Soviet delegation was on the whole, in favour of the text of the preamble. It laid down general principles which were acceptable to most States, whatever their political, economic and social systems, and gave due importance to the ideas of progress and freedom, which the Soviet Union had championed at all times.

50. Mr. BAROODY (Saudi Arabia) agreed with the representative of El Salvador that it would be useful if the Secretariat could consult the delegations concerned and produce a document setting out clearly the amendments to be discussed by the Committee. That would help to avoid the kind of misunderstanding that had arisen over the Brazilian amendments, about which the Committee did not seem able to form a clear opinion.

51. The Saudi Arabian delegation was not against proclaiming the right of self-determination in the preamble to the draft covenants but it feared that the

Committee would subsequently be forced to proclaim not only the right of peoples to self-determination but a large number of other rights, which would rob the preamble of its general character and brevity.

52. Mr. URQUIA (El Salvador) did not think it imperative to include in the preamble the idea of the right of peoples to self-determination. If it would help matters, however, he would not object to a terse reference to one or two general ideas on the right of self-determination. At all events, the Committee should keep the text short and avoid duplicating the wording of article 1.

53. He felt, moreover, that the members of the Committee should have the opportunity of discussing the questions raised by article 1 in connexion with the preamble since they were all linked together. The covenants constituted a legal instrument of the utmost importance for the United Nations; if the Committee wished them to be well-drafted, homogeneous documents, it must allow delegations to discuss cognate questions together, even if they arose out of different articles.

54. Mr. VELA (Guatemala) considered that the preambles should state the principles without making

reference to specific rights. If, however, the Committee wished to incorporate the notion of the right to self-determination in the preambles, he was quite prepared to agree to the addition of a few well-chosen words of general purport to the present text of the second paragraph, on the following lines: "...and from the existence in the world of different human groups whose freedom and well-being demand the recognition of their right to self-determination". The delegation of Guatemala again stressed that the inclusion of that principle in the preamble should never serve as a pretext for eliminating it as a right from the substantive part of the covenants; it should serve rather to emphasize that right, which had been admitted by a declaration of the General Assembly since 1951.

55. Miss BERNARDINO (Dominican Republic) announced her intention, in conjunction with several other delegations, of proposing in due course a number of drafting changes to the preamble of the two draft covenants.

The meeting rose at 1.10 p.m.