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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, A/C.3/L.472, A/C.3/L.473, A/C.3/L.474) (continued)

GENERAL DISCUSSION (continued)

Preamble (continued)

1. Mr. GILSON (Belgium), speaking on a point of order, said that the sub-amendment proposed by Afghanistan and Saudi Arabia (A/C.3/L.474) was not admissible, since it replaced the text proposed by the Brazilian delegation¹ by an entirely different text. It was, in fact, either an amendment to the preamble to the draft International Covenants on Human Rights (E/2573, annex I) or a new proposal. He felt that the time had come to put an end to attempts, made in complete defiance of the rules of procedure, to get certain texts voted on before others.

2. Mr. MOROZOV (Union of Soviet Socialist Republics) regretted that procedural discussions took up so much of the Committee's time. Nevertheless he was obliged himself to speak on a question of that nature. He disagreed with the Belgian representative's interpretation of the rules of procedure; the Brazilian amendment and the sub-amendment proposed by Afghanistan and Saudi Arabia were both based on the same idea, which was that a sentence should be added to the preamble. The additions proposed were different, but it could hardly be expected that all delegations' views would be identical. He hoped that the Belgian representative would withdraw his objection, which could only complicate the Committee's work and that he would bear in mind that every delegation was entitled to express its views as it saw fit.

3. Mr. BAROODY (Saudi Arabia) said that his delegation and the Afghan delegation would like the text of the preamble to be approved as it stood; it was drawn up in general terms and covered all the rights mentioned in the draft covenants without singling out

any particular one. The sub-amendment, in which the phrase concerning the right of peoples to self-determination was worded in such a way that its presence in the preamble should not be an excuse for deleting an essential article, had been called forth entirely by the attitude of the Brazilian delegation. The delegations of Saudi Arabia and Afghanistan would be glad to withdraw their proposal if the Brazilian delegation would withdraw its amendment.

4. Mr. GILSON (Belgium) did not think there were any grounds for saying that his remarks would complicate the Committee's work; his motion was not intended to curtail anyone's freedom of speech. He felt that the incident could be regarded as closed; at the same time he emphasized that in future his delegation did not intend to lend itself to procedural manoeuvres which deprived the rules of procedure of all meaning.

5. Mr. NAJAR (Israel) thought that continual procedural difficulties could be avoided if the debate were to cover article 1 of the draft covenants as well as the preamble; at the end of the debate a vote could be taken first on article 1 and then on the preamble.

6. Mr. ABDEL-GHANI (Egypt) observed that so far there had been no criticism of the text of the preamble, which proved that it was worthy of the important document to which it served as an introduction. The Committee and the United Nations as a whole owed a debt of gratitude to the authors of so admirable a text.

7. He drew attention to the general criteria laid down by the committee of the 1945 San Francisco Conference which had drafted the Preamble to the Charter of the United Nations: that the Preamble should be a general introduction to the provisions of the Charter, should be in harmony with the substance and the form of the various articles and should be drafted in such language as to strike the imagination and appeal to the emotions. The text the Third Committee was examining met those criteria.

8. He would not expatiate again on his delegation's conviction that the right of peoples to self-determination should occupy a conspicuous place in the covenants; he would merely emphasize that the deletion of that right would cause bitter disappointment to millions of human beings who were deprived of political independence. At the ninth session of the General Assembly the Brazilian representative had proposed the insertion in the preamble of a statement concerning self-determination, in order to substitute a mere statement of principle for a legal obligation. However, the observations of the committee which had drafted the Preamble to the Charter made it clear that all the provisions of the Charter, including those of the Preamble, were indivisible and were equally valid and binding. There were therefore no grounds for claiming

¹ 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).

that the preamble to the covenants was less legally binding than the substantive articles.

9. It would be better, however, not to mention the right of peoples to self-determination in the preamble, since to do so would mean that an article embodying that right would have to be included in the body of the covenants and that might place delegations opposed to the adoption of such an article in a difficult position. There would be no point in setting up a working group as the Brazilian representative had proposed (638th meeting). The Committee must decide whether a statement concerning self-determination should be inserted in the preamble, not how such a statement should be drafted.

10. Lastly, he opposed the suggestion made by certain speakers that the vote on the preamble should be postponed. To do so would create a precedent which would have to be taken into account later, if delegations tried to obtain postponement of a vote on the grounds that article 1 was linked with other articles of the draft covenants. He therefore suggested that a vote should be taken as soon as the general discussion was concluded.

11. Mr. KADHIM (Iraq) was concerned at the inordinate length of the Committee's debates. His delegation was ready to vote immediately for the preamble as it stood; it formed a harmonious whole, covering the principles of the United Nations Charter, the rights and obligations of individuals and the obligations of States. His delegation was also ready to give favourable consideration to the amendment submitted by Bolivia, Costa Rica, the Dominican Republic and Guatemala (A/C.3/L.473) and the amendments submitted by Afghanistan and Saudi Arabia (A/C.3/L.474). It would oppose the Brazilian amendment replacing article 1 by a mere mention of the right of peoples to self-determination in the preamble. It was also opposed to setting up a working group, which could only result in loss of time.

12. Mr. HAKIM (Syria) shared the views of the Afghan and Saudi Arabian representatives. All Member States of the United Nations should do their utmost to implement the provisions of Article 1, paragraph 2, of the United Nations Charter with a view to ensuring respect for the principle of equal rights and self-determination of peoples. The Brazilian amendment conflicted with that provision and the Syrian delegation would therefore vote against it. Furthermore, since he regarded the wording of the preamble as entirely satisfactory as it stood he could not support the Brazilian proposal that a working group should be set up to draft a new text.

13. In his delegation's opinion, self-determination meant complete sovereign independence, which the colonial Powers were trying to replace by the concept of self-government by stressing the administrative aspect of the question and reserving their position with regard to all political aspects. The Syrian delegation would interpret any provision of the covenants relating to self-determination in the sense of independence, since the aim of such a provision should be to enable the dependent peoples to free themselves from all forms of political, social and economic subjection.

14. Miss BERNARDINO (Dominican Republic) submitted the joint amendment (A/C.3/L.473) of which she was one of the sponsors. While she realized that the expression "free men" in the existing text

of the preamble could hardly be misinterpreted, she felt that the Committee would do better to use a more general term applicable to persons of both sexes. The covenants should mark the great progress made by women in the social sphere in recent years and should in particular embody the fundamental principle of equal rights. Thus it would be both more in accordance with the authors' intentions and more correct to use the term "free human beings". She would, however, be willing to agree to the phrase "the ideal of free men and women". However that might be, clear and precise wording would facilitate the implementation of a principle the vital importance of which should be recognized in international legal instruments.

15. Mr. HIMIOB (Venezuela) said that, in order to speed up the debate on the draft covenants, he would not press for a decision by the Committee on the two questions he had asked at the previous meeting. The Salvadorian representative's statements (638th meeting) had made the scope of the first paragraph and the exact meaning of the fourth quite clear to him.

16. While he considered that the preamble was acceptable as it stood, he would be glad if, in the case of the first paragraph, the Salvadorian delegation would formally submit the amendment which it had planned to put before the Committee (638th meeting). If it was adopted, the preamble would refer both to the "purposes" and to the "principles" proclaimed in the Charter of the United Nations and would establish the right of self-determination, since the latter was embodied in Article 1, paragraph 2.

17. So far as the fourth paragraph of the preamble was concerned, he was satisfied with the reply given by the representative of El Salvador, who had thoroughly analysed the scope of the legal commitments entered into by the non-member States that would sign the covenants.

18. Although he supported the joint amendment (A/C.3/L.473), he was sorry he could not accept the several proposals made by Brazil. He did not think that it would be wise to include in the preamble a specific principle corresponding to an article not yet adopted. If the Committee later adopted a provision on self-determination, it could then, under rule 124 of the rules of procedure, revise the text of the preamble. He saw no need to set up a working group, since the members of the Committee appeared to be in general agreement on the preamble as it stood.

19. On the question of procedure, he saw no reason why the Committee should not vote on the preamble as soon as the discussion was concluded.

20. Mr. D'SOUZA (India) said that his delegation was quite satisfied with the text of the preamble on the whole. He agreed that in general the preamble of a text should not be examined until after the substantive articles had been studied, but he did not think that that procedure was imperative in the case in point. The preamble to the drafts was not so much a summary of the ideas expressed in the operative parts as of the principles already enshrined in the Charter of the United Nations. The Committee might therefore properly discuss it first and then vote on it.

21. With regard to the amendments proposed by Brazil (A/C.3/L.412), he was aware that the Brazilian Government's purpose in submitting them had been to help to reconcile the different schools of thought. Laudable though that intention was, it remained a fact

that the amendments in question were far from receiving general approval. Those delegations which were against recognition of the right of self-determination did not support them; while the advocates of that right were afraid of jeopardizing article 1 if they agreed to the insertion of the principle in the preamble. But it was understandably difficult for them to reject amendments enunciating a right to which they were firmly attached. Thus the solution adopted by the representatives of Afghanistan and Saudi Arabia, in their amendments (A/C.3/L.474) to the Brazilian proposals, seemed reasonable and logical. Their text respected the fundamental idea embodied in the Brazilian proposals; there was thus no justification for regarding those amendments as inadmissible, and the Indian delegation would vote in favour of them if the representative of Brazil maintained his amendments.

22. Mr. GALANG (Philippines) recalled the importance attached by his Government to the principle of self-determination and consequently to article 1 of the draft covenants. He thought the preamble very satisfactory as it stood. If it must include a mention of the right of self-determination, as some delegations thought, a better course would be to make use of general formulæ rather than of the precise terms proposed by Brazil. Furthermore, the almost textual inclusion of the substance of article 1 in the preamble might lead to its omission at a later stage from the operative parts of the draft covenants. Therefore, if the Brazilian amendments were put to the vote, the Philippine delegation would oppose them.

23. Mr. HOARE (United Kingdom) invited the Committee to consider carefully the procedure to be adopted in deciding on the preamble. There was broad agreement on the preamble as it stood, and it would be regrettable if the Committee had to discuss and decide upon proposals which would bring a controversial note into it.

24. If the Committee decided to consider and vote upon the Brazilian amendments (A/C.3/L.412) and the sub-amendments proposed by Afghanistan and Saudi Arabia (A/C.3/L.474), it would inevitably become involved in a full-scale debate on the right of self-determination since those amendments raised the whole question of the relationship of self-determination to the covenants and would involve discussion of the terms of article 1, which were embodied in the Brazilian amendment. In fact, however, none of the amendments before the Committee was self-sufficient. Those which Brazil proposed to the preamble resulted from the proposal that article 1 should be deleted; that deletion was in itself consequent on the drafting of a protocol proclaiming the right of self-determination. The Afghan and Saudi Arabian delegations, which considered the text of the preamble perfectly acceptable as it stood, had submitted their amendments (A/C.3/L.474) solely because Brazil stood by its proposals. It was certain that delegations would take an active part in such a debate, especially if, like the representative of Egypt, they considered that juridically the preamble to the covenants was equal in value to the operative parts.

25. Such a debate would have several disadvantages: it would certainly not permit the Committee to reach unanimity on the text of the preamble, and it would slow down its work. Moreover, it would mean that the issue of self-determination would be debated thrice over, since the Committee still had to state its views

on the right of self-determination in two other contexts: when it came to examine article 1 of the draft covenants and when it considered item 29 of the agenda. In that situation, the Committee would be well advised to act upon the constructive suggestion of the representative of El Salvador that the Committee should not vote either upon the preamble or upon the amendments. The Committee might be content at that stage with the consensus of opinion which had emerged in favour of the texts which the Commission on Human Rights had prepared (E/2573, annex I). It could then go on to consider article 1, on the understanding that it would return to the preamble later and would then decide on any amendments that had not been withdrawn in the meantime.

26. Mr. PAZHAWAK (Afghanistan) asked what would happen to the United Kingdom amendment calling for the deletion of article 1 (A/2910/Add.1) if the Brazilian amendments to the preamble were not adopted.

27. Mr. HOARE (United Kingdom) replied that his delegation would maintain its proposal.

28. Mrs. KHONGMEN (India) observed, in regard to the amendment by the four Powers (A/C.3/L.473/, that the words "human beings" were preferable to the word "men" because they made the paragraph more explicit. The adjective "human" was already used in various contexts in the preamble and its use would not introduce anything new. The proposed amendment would emphasize the universal character of the covenant, without running counter to the intentions of the authors of the preamble. She hoped that it would be unanimously adopted and that her male colleagues, in particular, would not oppose it.

29. The CHAIRMAN asked the representative of Brazil whether he maintained his proposal (638th meeting) for the setting up of a small working group to examine amendments to the preamble.

30. Mr. FERREIRA DE SOUZA (Brazil) replied in the affirmative.

31. Mrs. PEÑA CORDOVA (Bolivia) hoped that the amendment submitted by her delegation jointly with the delegations of Costa Rica, the Dominican Republic and Guatemala (A/C.3/L.473) would not give rise to a long discussion. The representatives who had already spoken on that proposal had clearly explained their reasons and to save time she would not repeat them. Nevertheless, she wished to thank the delegations of El Salvador and Venezuela for the support they had given to the joint proposal.

32. Mr. GILSON (Belgium) wondered whether, now that a long debate was approaching its end, the wisest course would not be to vote on the preamble just as it was and then go on to consider article 1. He thought, however, that the proposal of El Salvador was worthy of retention, since it seemed to leave the door open to some extent for any amendments to the preamble that might become necessary should the Committee decide, through deletions or additions, to introduce radical changes in the operative parts of the covenants. He referred, of course, only to important changes, with which the preamble would necessarily have to be brought into line.

33. Referring to the four-Power amendment (A/C.3/L.473), he said that all the articles in the draft covenants covered men and women alike. Indeed, it could not be otherwise, as all the rights proclaimed

in the United Nations Charter applied equally to men and women. While the reasons which the representative of the Dominican Republic had advanced in support of the joint amendment were undoubtedly sound, the Belgian delegation feared that those very reasons might point to the opposite conclusion. She was quite right in saying that women must not be excluded from exercise of the rights enunciated in the covenants—but nobody had thought of interpreting the word “men” in such an exclusive sense. It would be unwise to try to remove a misunderstanding which did not exist, the word “men” being used in the draft covenants in its general connotation covering both sexes. In any case, if it were absolutely essential for the exact sense of the term to be made clear, the point indicated in the four-Power amendment was hardly the right one at which to do it. Since in the French text the term in question came immediately after a reference to the *Déclaration universelle des droits de l'homme*, the amendment might give the impression that the Universal Declaration of Human Rights did not apply to women. Thus, as it was impossible to alter the 1948 Declaration, the effect of the four-Power amendment might be to narrow its scope. The authors of the amendment were actuated by the most laudable motives, but he would ask them to reflect on the possible implications of their proposal. In his opinion, it would be sufficient to agree once and for all that the word “men” covered both sexes.

34. Miss LOPEZ (Colombia) said that her delegation would abstain from voting on the Brazilian amendment (A/C.3/L.412) for the same reasons as those for which it would abstain from voting on article 1. While acknowledging the great importance of the principle of self-determination, her delegation considered that, in the form in which it was enunciated in the two draft covenants, it was liable to misinterpretation.

35. In the first place, the Colombian delegation considered that the right of peoples to self-determination must belong to nations, in the sense that the fate of a nation should not be decided without prior consultation of its inhabitants. The principle could not, however, be interpreted as giving a group of individuals, or a people constituting a small minority within a nation, the right to form separatist movements or press for the revision of treaties. Any territorial treaty was usually a source of some discontent to small minorities in the frontier areas. To suggest that the right of peoples to self-determination could be invoked *ad infinitum* in order to obtain the revision of treaties signed by the parties concerned of their own free will would mean reviving throughout the world territorial disputes which had already been settled satisfactorily.

36. Furthermore, her delegation considered that the right of peoples to sovereignty over their natural wealth and resources could in no case imply the right of nationalization or expropriation without prior compensation. Paragraph 3 of article 1 of the two draft covenants was not sufficiently clear on that point, for it might be interpreted as giving States the right to nationalize undertakings without compensation, a right that Colombia could not admit.

37. For the reasons indicated, the Colombia delegation would support the existing text of the preamble.

38. Regarding the four-Power amendment (A/C.3/L.473), she entirely agreed with the sentiments of the representative of the Dominican Republic.

39. Mr. URQUIA (El Salvador), referring to the statement of the Venezuelan representative, said that some Latin American delegations, among them his own, had, in fact, thought of submitting an amendment to the preamble. As, however, most delegations appeared to prefer to keep the preamble as it was, the Latin American delegations had abandoned the idea.

40. He wished to thank the United Kingdom representative for supporting his suggestions on procedure. The delegation of El Salvador thought that the major difficulty lay in the question of self-determination and that the inclusion of a paragraph on that question in the preamble must depend on what was decided regarding the operative article dealing with it. It accordingly felt that the best course would be to leave the question in abeyance and to accept the preamble in its existing form, allowing for the possibility of adding, if necessary, an appropriate paragraph to the preamble in the light of the decision on the articles.

41. That was no more than a suggestion. What his delegation was formally proposing was that the Committee should vote on the preamble but not on the Brazilian amendment (A/C.3/L.412) or the joint amendment submitted by Afghanistan and Saudi Arabia (A/C.3/L.474), it being understood that the delegations concerned might bring their amendments up again later and ask the Committee to take a decision regarding them.

42. His delegation would support the four-Power amendment (A/C.3/L.473), which it wished to see adopted at the same time as the existing text of the preamble. In reply to the objections of the Belgian representative, he pointed out that, although the Spanish word *hombre*, like the French word *homme*, could apply to men and women alike, it might be advisable, in view of the developments in the status of women, for the point to be made clearer. That, incidentally, was why Spanish texts spoke of *derechos humanos* and no longer of *derechos del hombre*, just as the English versions of the same texts used the term “human rights”. Admittedly, as the Belgian representative had pointed out, the title of the Universal Declaration of Human Rights could not be changed, but there was nothing to prevent the use of a different terminology in the draft covenants.

43. Mrs. QUAN (Guatemala) thanked the representative of El Salvador for having stressed the reasons in favour of the change proposed in the four-Power amendment (A/C.3/L.473). As the representative of the Dominican Republic had said, the words “human beings” gave more scope to the particular paragraph of the preamble. Possibly the word “men” was generally understood as applying to women and men alike but the authors of the amendment desired to use terms with the broadest possible connotation.

44. Miss BERNARDINO (Dominican Republic) regretted that she was unable to share the view of the Belgian representative. In 1951, the Spanish title of the Universal Declaration of Human Rights had been changed, on the initiative of the Mexican delegation, to *Declaración universal de derechos humanos* (General Assembly resolution 548 (VI)). There were important reasons for that change and the United Nations could not go back on such a decision. The authors of the amendment thought that the covenants should apply to all citizens of the world, whether men or women, and in particular to citizens of countries where women were still treated as chattels and not as human beings.

They also considered that there could not be any self-determination so long as women did not enjoy that right on the same footing as men.

45. Since the signature of the United Nations Charter, there had been new developments in language and they must be taken into account. It was unfortunate that the French language could not adapt itself to them, but it was a fact that the word "men" was no longer a generic term covering both men and women.

46. Mr PAZHWAK (Afghanistan) noted that the Brazilian representative still wished the Committee to consider his proposal that a working group should be set up to study the amendments relating to the preamble. He therefore concluded that despite the repeated appeals of several delegations, the Brazilian representative in fact maintained his amendment. While he was perfectly within his rights in doing so, such an attitude created further difficulties for the Committee.

47. First, it was essential to know what the representative of Brazil thought of the amendment submitted by Afghanistan and Saudi Arabia (A/C.3/474) to his amendment. Secondly, the Brazilian representative had not made it clear what the terms of reference or composition of the proposed working group would be. Finally, if he thought that the working group should try to reach a compromise in the light of the discussion and the proposals submitted, it was advisable to know whether there was any possibility of such a compromise and, to ascertain that, the Brazilian representative would have to say what he thought of the amendment proposed by Afghanistan and Saudi Arabia.

48. There were two questions to be faced: first, whether it was desirable to refer to the right of peoples

to self-determination in the preamble; and secondly, if the Committee considered such a reference desirable, how it should be worded. Moreover, the Committee had to decide whether the text should be that proposed by Brazil, that submitted by Afghanistan and Saudi Arabia, or some other text.

49. The situation was quite clear. Most delegations, including those firmly opposed to the right of peoples to self-determination, were in favour of adopting the preamble in its existing form. Other delegations thought that that right could be mentioned briefly and in general terms in the preamble. Before voting on the Brazilian proposal that a working group should be set up, the Committee had to settle the preliminary question whether or not it was desirable to refer, in the preamble, to the right of people to self-determination. If the Committee decided that it should not, the working group would be superfluous. If, however, it decided that it should, the terms of reference and composition of the working group would have to be specified.

50. He must emphasize that the principles defended by his and other delegations had been accepted by the General Assembly and adopted by other United Nations organs. He did not see how any compromise was possible beyond the amendment which he had proposed jointly with the representative of Saudi Arabia. He doubted whether the Brazilian amendment (A/C.3/L.412) would be acceptable to the Committee.

51. He said he would like to know how the Brazilian proposal for a working group would be affected if Afghanistan and Saudi Arabia insisted on having their amendment (A/C.3/L.474) put to the vote.

The meeting rose at 1 p.m.