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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.475, A/C.3/L.476, A/C.3/L.477/Rev.1, A/C.3/L.479, A/C.3/L.480, A/C.3/L.481) (continued)

**PROCEDURAL PROPOSALS CONCERNING ARTICLE 1
 (continued)**

1. The CHAIRMAN invited the Committee to continue its discussion of the revised draft resolution submitted by Cuba, Ecuador and El Salvador (A/C.3/L.477/Rev.1), the Afghan amendments (A/C.3/L.478), and the amendment submitted orally by the Saudi Arabian representative at the preceding meeting.

2. Mr. HSUEH (China) said that, although he would support the Danish draft resolution (A/C.3/L.479), he was also prepared to vote for the joint draft resolution (A/C.3/L.477/Rev.1), in a further effort to solve the difficult problem presented by article 1 of the draft covenants (E/2573, annex I) at the current session. The proposed working party should consider not only possible amendment of the article, but also the wider question of its inclusion in the draft covenants.

3. His delegation's suggestion that the article on self-determination should be embodied in a separate covenant had received support from some delegations. The three covenants could be submitted to the General Assembly simultaneously. The likelihood was that the General Assembly would adopt all three and open them for signature at the same time, so that all Governments that wished to do so would be able to ratify them. The great advantage of such a procedure was that, with the article on self-determination removed, many more States would be able to ratify the two main covenants, and in time presumably all three would come into effect. He hoped the proposed working party, if constituted, would give serious consideration to that suggestion.

4. Mr. LUCIO (Mexico) said that every effort should be made to work out a text for article 1 that would be acceptable to most of its present opponents. He there-

fore supported the joint draft resolution (A/C.3/L.477/Rev.1), although he realized that the task of the proposed working party would be extremely difficult. He also supported the Saudi Arabian representative's amendment, as the Committee must know when to expect the results of the working party's efforts, in order to be able to organize its own work. He would, however, abstain on the Afghan amendments (A/C.3/L.478); they merely restated the General Assembly's decision and were therefore superfluous.

5. He trusted that the proposed working party would include some members of the Commission on Human Rights, who would be familiar with the history of the existing text of article 1.

6. Mr. MASSOUD ANSARI (Iran) recalled that at the 645th meeting he had suggested the establishment of a committee of experts, jurists and historians to produce an improved text on the right of self-determination on the basis of such agreement as had already been reached on the substance. The proposed working party did not satisfy him, since it would be asked, once again, to take into account views already fully weighed in the past and since, not being composed of jurists, it could not be expected to produce a legally perfect text. Nevertheless, as he did not wish to prejudge the issue, he would not vote against the joint draft resolution (A/C.3/L.477/Rev.1), but would abstain.

7. Mrs. TSALDARIS (Greece) said that, since her delegation would welcome any improvement in the form of article 1 which did not affect the substance, she would vote for the joint draft resolution and the Afghan and Saudi Arabian amendments. She regretted that the Ecuadorian representative's appeal had not been heeded, that the membership of the proposed working party would not, as he had originally planned, reflect all the points of view expressed and that the working party would be nothing more than a drafting committee. Some delegations which had criticized the article had refused to be represented in the working party because their Governments felt that there was a great difference between the affirmation of a principle and the assumption of a legal obligation; the United Kingdom representative had stated that his Government's fundamental position, which was based on long, practical experience, was that the time had not yet come to couch the principle in legal terms. The representative of Greece would refrain from commenting on that experience.

8. The United Kingdom representative had asserted that the Greek delegation wished to limit the application of the right of self-determination to Non-Self-Governing Territories. That was a misunderstanding; she had merely raised the hypothetical question whether the United Kingdom would be prepared to vote for an article which would exclude the metropolitan territories

more definitely and the implementation of which would be limited to colonial territories. As she had expected, no reply had been given. She deplored the fact that the United Kingdom representative had not seen fit to comment on other points she had raised, which related to matters of tragic urgency and concerned the aspirations of a people who were longing for the freedom of which they were deprived, although the United Kingdom representative had insisted that the position of his Government in regard to article 1 should not be interpreted as a refusal to take account of the people's aspirations.

9. She would vote for the joint draft resolution (A/C.3/L.477/Rev.1) and against the Danish draft resolution (A/C.3/L.479).

10. Ato Solomon TEKLE (Ethiopia) thought that the divergencies of views in the Committee were too great to be reconciled by the proposed working party in the brief time it would have at its disposal. He would therefore abstain in the vote on the joint draft resolution.

11. In reply to a question from Miss BERNARDINO (Dominican Republic), the CHAIRMAN stated that, if the joint draft resolution was adopted, he would ask the Committee what subject it wished to take up while waiting for the working party's report.

12. Mrs. RÖSSEL (Sweden) said that she would vote for the joint draft resolution (A/C.3/L.477/Rev.1) as it stood but would be unable to do so if the Afghan amendments (A/C.3/L.478) were adopted.

13. Mr. QUENTIN-BAXTER (New Zealand) thought that the joint draft resolution was a wise attempt to make good use of the debate on article 1. It was generally recognized that merely to carry the article by a majority vote would be an empty victory. Although his delegation took a pessimistic view of the prospects of drafting a generally acceptable and legally enforceable article on self-determination, it realized that many delegations were anxious to include such an article in the draft covenants. What might be termed intermediate proposals had been made: that the right of self-determination should be enunciated in a separate covenant or in a protocol. He felt, however, that no avenue should be left unexplored, and was therefore prepared to support the joint draft resolution (A/C.3/L.477/Rev.1), under which the working party would be instructed to review article 1. Pending the results of its work, all delegations should suspend final judgement on the feasibility of including the article in the draft covenants. He hoped that any text that emerged would have universal application, and would not be merely an anti-colonial clause.

14. He would vote against the Afghan amendments (A/C.3/L.478), since they would compel the working party to ignore completely the possibility of finding other ways to give legitimate expression to the idea behind the draft article as it stood. That was one of the main issues raised during the discussion. He was also opposed to the Saudi Arabian amendment; it would be wiser not to set a time limit for the working party, but to trust it to report back to the Committee as soon as it was ready.

15. Mr. HOARE (United Kingdom), replying to the Greek representative, emphasized that his attitude to the Ecuadorian proposal in its original form (A/C.3/L.477) had been the only one consistent with his attitude throughout the debate.

16. He would be prepared, however, to vote for the three-Power draft resolution (A/C.3/L.477/Rev.1), as the amendments made by Cuba and El Salvador had removed his objections to the original Ecuadorian proposal. The revised draft reflected an earnest endeavour to give the proposed working party as wide a mandate as possible and to enable it to consider the text of article 1 in the light of all the views expressed during the discussion. He was not very optimistic about the success of the working party's efforts to reconcile opposing points of view, but he was willing that the attempt should be made.

17. He could not support the Afghan amendments (A/C.3/L.478), which were inconsistent with the revised text of the draft resolution. Nor could he support the oral amendment proposed by the Saudi Arabian representative, as the working party might be hampered in its task by the necessity of meeting the proposed time limit. If the amendments were adopted, he would have to reconsider his attitude on the three-Power draft resolution.

18. Mr. KADHIM (Iraq) said that he had always found article 1 acceptable in its existing form. However, in order to meet the objections of certain delegations, he would support the three-Power draft resolution (A/C.3/L.477/Rev.1), on the understanding that the proposed working party was only to consider the revision of the text of article 1, and not to discuss the possibility of a separate covenant on self-determination, as proposed by the Chinese representative. He asked the sponsors of the draft resolution to confirm his understanding of the terms of reference they proposed for the working party.

19. Mr. PAZHWAQ (Afghanistan) regretted that the Mexican representative felt unable to support his amendments (A/C.3/L.478). The statements made by the New Zealand, Swedish and United Kingdom representatives had shown that the amendment was a necessity, and he hoped that the Mexican representative would reconsider his position.

20. The United Kingdom representative had said that the Afghan amendments were inconsistent with the revised text of the Ecuadorian proposal, but he did not agree. In point 1 of his amendments, it was proposed that the working party should "submit a text" rather than "report", so that there should be no doubt about the task with which it was to be entrusted. If the words "report the result of its work" were interpreted as liberally as they had been during the discussion at the current meeting, the working party might find itself unable to submit a text, in which case time would have been lost and no purpose served. He therefore urged that a vote be taken first on his amendments. Those delegations which were anxious to see article 1 adopted, in conformity with the General Assembly's decision, could not fail to support it, and those who opposed it would be obliged to define their position. He felt that certain delegations would find any text of article 1 unacceptable. He realized that it could not be forced on the Third Committee against the will of the majority, but there was no question of that: the majority concurred in his delegation's wish to see the right of self-determination included in the draft covenants and a text adopted at the current session.

21. Mrs. CISELET (Belgium) said that she would vote for the three-Power draft resolution (A/C.3/

L.477/Rev.1) for the same reasons as the New Zealand and United Kingdom representatives. She could not support the Afghan amendments (A/C.3/L.478) and Saudi Arabian oral amendment, and would not be able to vote for the three-Power draft resolution if they were adopted.

22. Mr. BAROODY (Saudi Arabia) said that the discussion at the current meeting had only confirmed the fears he had expressed at the 653rd meeting with regard to the intentions of those who were opposed to article 1. In submitting their revised draft resolution (A/C.3/L.477/Rev.1) the three Powers had given proof of their willingness to compromise, but their opponents were not animated by the same spirit. The intention of the Afghan amendments (A/C.3/L.478) was to close all avenues of escape to those who did not wish to comply with the General Assembly's instructions. The refusal of certain delegations to support them and his own oral amendment could only be interpreted as a desire not to reach a solution. If a definite date were not fixed for the working party to finish its task, a final text of article 1 might not be submitted before the end of the session. It was imperative that the three-Power draft resolution, and the amendments to it, should be adopted.

23. The Chinese representative had proposed the drafting of a third covenant, on self-determination, which would be opened for signature simultaneously with the other two, but that was merely an attempt to throw dust in the Committee's eyes. The same argument of "simultaneous signature" had been advanced when the question of a second draft covenant had first been introduced. It was merely begging the question. The colonial Powers would refuse to sign the third covenant, which would weaken the force of the other two. His delegation and many others had been unwilling to accept any separation of rights which they felt to be interdependent, but they had bowed to the will of the majority. However, they were not to be caught again with such catchwords as "simultaneous signature".

24. The United Kingdom representative's attitude to the revised draft resolution showed that he had seized upon the idea of setting up a working party as an excuse for further procrastination. He was attempting once more to slow down the efforts of the United Nations to eradicate colonialism by negotiation rather than bloodshed, but he was fighting for a lost cause. Public sentiment against the exploitation of dependent territories was growing, even in the exploiting countries, as recent decisions concerning Morocco had shown. His own and other delegations were insisting on the inclusion of the right to self-determination in the draft covenants in order to strengthen the position of the territories struggling for their independence and to ensure the support of public opinion. The Committee must face its responsibilities or betray the trust which millions of unhappy and down-trodden people had placed in it.

25. He hoped that the three-Power draft resolution would be adopted, with the amendments to it. As the Danish representative had not withdrawn his draft resolution (A/C.3/L.479), he himself wished to submit a draft resolution.¹

26. Finally, he proposed that if the three-Power draft resolution was adopted, the Committee should interrupt its consideration of the draft covenants while the working party was meeting and take up another item on its agenda, possibly item 63.

27. Mr. LANNUNG (Denmark) said he would vote for the three-Power draft resolution (A/C.3/L.477/Rev.1) and the Cuban amendment (653rd meeting) to it, but he could not support the Afghan amendments (A/C.3/L.478) or the Saudi Arabian oral amendment (653rd meeting), which would defeat the purpose of the original draft resolution. He regretted, however, that the revised draft resolution had left out the provision that the working party should be composed of advocates of the various points of view, but he did not believe that any change on that point had been intended; it would be necessary for the working party to be so composed if it were to achieve fruitful results.

28. He would not press for a vote on his own draft resolution (A/C.3/L.479) just then, but, as he had stated earlier, he would ask for it to be put to the vote when the Third Committee was ready to decide on article 1.

29. Mr. NAJAR (Israel) thought that the Committee should be grateful to the sponsors of the three-Power draft resolution (A/C.3/L.477/Rev.1) for their excellent text. It reflected three trends which had become apparent during the discussion of article 1. In the first place, no delegation had asked for an immediate vote on the article; that showed the Committee's awareness of the need for negotiation. Secondly, the discussion in the Committee could not go on indefinitely; a working party composed of the advocates of various views was likely to succeed where the Committee had failed. Thirdly, the Committee should decide the issue before the end of the session; that was provided for in the proposal. The Committee, being master of its own procedure, could decide what work it would do in the intervening period.

30. The Israel delegation would therefore vote for the three-Power draft resolution, but could not vote for the Afghan and Saudi Arabian amendments.

31. Mr. ARAOZ (Bolivia) said that his delegation's statement at the 651st meeting had been inaccurately reported in the provisional summary record.² He had referred to the nationalization of mines in Bolivia as an expression of the will of the people to remedy a situation created by certain economic interests. Three large mining enterprises had hampered the economic development of the country and the operation of a truly democratic system. He had cited the nationalization of the mines as an illustration, based on experience, of the fact that political independence was illusory unless it was complemented by economic independence.

32. He would vote for the three-Power draft resolution because it reflected the Committee's wish to achieve harmony and because it was likely to lead to the adoption of a more satisfactory article on self-determination. It might reasonably be expected that the proposed working party would finish its work in time to enable the Committee to return to article 1. Although he considered many aspects of the Afghan and Saudi Arabian amendments to be useful, he would

¹ The draft resolution was subsequently issued as document A/C.3/L.482.

² Corrections submitted by the Bolivian delegation were incorporated in the summary record of the 651st meeting in its final form.

abstain in the vote on them, in order not to aggravate the division of opinions.

33. Mr. RODRIGUEZ FABREGAT (Uruguay) said that he would vote for the three-Power draft resolution because he considered that the wording of paragraph 3 of article 1 of the draft covenants should be improved. The Committee must not indefinitely postpone its work on the covenants, which had been so long awaited by the whole world; the Saudi Arabian proposal that a time limit should be set for the working party's work was therefore reasonable. He would also vote for the Afghan amendments (A/C.3/L.478).

34. Mr. PAZHWAK (Afghanistan) thought that the Committee should be given an opportunity to discuss the amendment submitted by Lebanon and Pakistan (A/C.3/L.481) to article 1 of the draft covenants, in view of the terms of the three-Power draft resolution. The amendment was important, since self-determination was referred to as a principle, and not a right, in paragraph 1 of that text; the amendment thus directly contradicted the positions which the Lebanese and Pakistan delegations had taken on the question in the past few years.

35. Mr. AZKOUL (Lebanon) said that the sponsors of the amendment did not consider that all amendments must necessarily be discussed in the Committee, since the working party would be able to deal with all the texts. He thought that the French text of paragraph 1 should have referred to the principle of the right of self-determination, as did Article 1, paragraph 2, of the Charter; he recalled in that connexion that a similar difference existed between the English and French texts of that Article of the Charter. Moreover, self-determination was referred to as a right in paragraph 2 of the amendment. There was therefore little difference between the Lebanese and Afghan positions.

36. The sole object of setting up a working party was to try to reach agreement on a more satisfactory text; there could be no question of discussing the deletion of article 1 from the draft covenants. It would be inadvisable to ask a small group to decide that major issue when the Committee itself had been unable to do so. The Afghan amendments (A/C.3/L.478) to the three-Power draft resolution (A/C.3/L.477/Rev.1) were therefore reasonable. It must be borne in mind, however, that, if the working party failed to reach agreement on a text, the question would be referred back to the Third Committee.

37. Mr. PAZHWAK (Afghanistan) said that the Lebanese representative's explanation concerning the difference between the English and French texts did not satisfy his delegation. The question was not one of upholding the principle of the right of self-determination, but of setting forth that right as one of the fundamental human rights in the context of the covenants. Furthermore, his delegation could not agree to reducing the question of self-determination to a purely colonial issue, by limiting its application to the Non-Self-Governing and Trust Territories; in its view the scope of the problem was much broader.

38. The records of the debates on self-determination showed that much time had been devoted to the question whether a right or a principle was involved; the Lebanese and Pakistan delegations had always held that self-determination was a right; if they had changed their views, they should say so now. Finally, the Le-

banese representative himself had said that the working party should not be called upon to discuss major issues; the question whether self-determination was a principle or a right was such an issue and should therefore be considered in the Committee.

39. Mr. AZKOUL (Lebanon) said that the purpose of paragraph 1 of the joint amendment (A/C.3/L.481), which restated a provision of Article 1, paragraph 2, of the Charter in a legally binding form, was to ensure the universality of that legal obligation more effectively than was done in paragraph 1 of article 1 of the draft covenants. The reason for limiting the application of the right to the Non-Self-Governing and Trust Territories, in paragraph 2, was that the problem of those Territories was the most urgent in the modern world.

40. His delegation had in no way wished to intimate that a principle, respect for a right in principle, was involved. There could be no doubt that self-determination was a right in all the senses of the word. Nevertheless, from the realistic point of view, it must be borne in mind that the application of the right depended on the circumstances of each case.

41. Mr. MOROZOV (Union of Soviet Socialist Republics) said that he would vote for the Saudi Arabian oral amendment (653rd meeting) and the Afghan amendments (A/C.3/L.478) to the three-Power draft resolution (A/C.3/L.477/Rev.1) because it was essential to prepare a satisfactory text of article 1 within a specified time limit. Those who were opposed to the inclusion of article 1 in the covenants were trying to use the working party as a means of repeating the whole debate on the article in miniature; it was therefore surprising that some advocates of the inclusion of the article were not prepared to support amendments which would foil that attempt.

42. He did not consider that the Lebanese representative's arguments were legally sound. In particular, the assertion that a restatement of a provision of the Charter would be more legally binding than the original article was incorrect; the Lebanese representative seemed to be ignoring the binding provisions of paragraph 2 of the article. Indeed, those who were opposed to the inclusion of the article had argued that its provisions imposed unduly rigid obligations on Member States.

43. Mr. PAZHWAK (Afghanistan) thought that the working party should bear in mind the fact that, although the sponsors of the joint amendment (A/C.3/L.481) referred to the principle of self-determination, they believed that self-determination was a right. The Lebanese representative had explained that the reason for a restatement of the terms of the Charter in paragraph 1 of the text proposed in the amendment was the wish to ensure universality; nevertheless, the idea of merely proclaiming the right had been discussed in detail and rejected by the majority. Furthermore, such a general statement was not in conformity with the other articles of the covenants; the Commission on Human Rights and the Third Committee had decided against using a declaratory form of drafting, considering it unsuitable for legal instruments.

44. The working party should also take note of the limitation laid down in paragraph 2 of the text proposed in the amendment and should bear in mind the fact that both schools of thought had opposed such restrictions of application.

The meeting rose at 1.5 p.m.