



Thursday, 13 October 1955,
at 10.50 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, A/C.3/L.467, A/C.3/L.468, A/C.3/L.469, A/C.3/L.470) (continued)

PROCEDURE FOR CONSIDERATION OF THE DRAFT COVENANTS (continued)

1. Mr. NOSEK (Czechoslovakia) said that his delegation shared the views that had been expressed by many representatives on the Secretary-General's astonishing statement. It was surprising, indeed, that there should be any suggestion of giving priority to the discussion of any particular parts of the draft covenants. General Assembly resolution 833 (IX) provided that the Committee should discuss the draft covenants submitted by the Commission on Human Rights (E/2573, annexes I, II and III) in their entirety, and there was no reason to change an order which had been carefully established with due regard for the content and interrelationship of the articles. The first essential was that the drafts should be discussed in a logical sequence, since the individual articles were logically interrelated; to depart from the existing sequence would be tantamount to tampering with the very substance of the draft covenants.

2. The Committee should therefore discuss the preamble and then proceed to consider part I, since the right set forth in article 1 fundamentally affected all other human rights. That point clearly emerged from the United Nations Charter itself, and from the practical point of view any guarantee of the rights of individuals was an absurdity in a society in which the right of self-determination was denied. That consideration had guided the General Assembly in its decision (resolution 545 (VI)) that an article relating to the right of self-determination should be included in the draft covenants. It would be ill-advised and unrealistic, therefore, to tolerate any endeavour to postpone the discussion of an article of such fundamental importance. The Czechoslovak delegation would support any proposal that the Committee should consider the preamble and the articles in the natural and logical order in which they had been submitted by the Commission on Human Rights.

3. Mrs. TSALDARIS (Greece) observed that much time had been saved at the beginning of the session by avoiding a procedural discussion about the agenda; and it was to be hoped that the decision on the order of discussion of the articles of the draft covenants could be taken without undue delay. Her delegation could not support the Danish proposal (A/C.3/L.469) that part III should be considered first, because that would upset the order established after long careful study by various United Nations organs. Moreover, the Greek delegation considered that article 1 of the draft covenants related to a fundamental human right, one which was essential both to the dignity of the human being and to friendly relations among nations. Some representatives had averred that self-determination was a principle, and not a right; but if individuals and peoples believed in and lived by certain principles, those principles needed to be secured and applied by instruments of application. The Greek delegation believed that self-determination was a universally recognized principle and right, and that right should be set forth in the covenants. If the United Nations did not share that opinion and if the principles proclaimed in the Charter were to remain mere principles that would not be implemented, the United Nations could have rested content with the Universal Declaration of Human Rights and need not have spent years preparing legal instruments.

4. The long and careful consideration that had been given to the draft covenants and the valuable contributions of the eminent persons who had helped to prepare them had enabled the United Nations to reach a stage at which the various problems could be discussed fruitfully. The Committee should not be alarmed by transitory controversies and debates, even if they were sometimes heated. If the United Nations wished to preserve the faith of the peoples in the Charter, and if it was not to become a purely academic institution, its Members must not flinch before difficulties, but must apply themselves with goodwill and sincerity to achieving their goal, with a full sense of their responsibilities to the Organization and to the peoples.

5. The Greek delegation therefore considered that the draft covenants should be discussed in the established order, beginning with the preamble, as suggested in the Costa Rican proposal (A/C.3/L.467). As the representative of El Salvador had said, the discussion of article 1 of both draft covenants was likely to be the most difficult and controversial; once that obstacle was surmounted, the remaining part of the debate would be much easier. As for the preamble, it constituted the introduction to the draft covenants, and should not therefore be put off to the end of the discussion. In view of the similarity of the Costa Rican, Saudi Arabian and Salvadorian proposals, she suggested that the sponsors might agree on a text.

6. The Greek delegation regarded the Secretary-General's statement (633rd meeting and A/C.3/L.466) as an expression of individual opinion, and would give it careful consideration, as it would any statement from an individual holding a high position in international life who wished to contribute to the Committee's work. It must be understood, however, that such an expression of personal opinion was outside the framework of the Committee's normal procedure and that the Committee's work could in no way be influenced by it.

7. Mr. ABDEL-GHANI (Egypt) thought that there was some confusion in the Committee about whether the debate in progress related to the draft covenants themselves, the order in which the articles should be discussed, the Secretary-General's statement or item 29 of the agenda. The procedural situation seemed to be that since the Secretary-General had delivered his statement, which had invited the comment of several delegations, the Committee had implicitly decided to discuss it in connexion with article 1 of the draft covenants. Some of the issues in the statement related to item 29, but the last part of it contained passages which directly related to the covenants. The Secretary-General had in effect proposed that article 1 should be deleted from the draft covenants and that a declaration on the right of self-determination should be drafted by a body other than the General Assembly. That proposal led to the logical conclusion that the discussion of the covenants should start with a debate on article 1; the Committee already had before it proposals by the delegations of Australia, the Netherlands and the United Kingdom for the deletion of the article and the Secretary-General's statement merely endorsed those proposals.

8. Consequently, the Saudi Arabian proposal (A/C.3/L.468) faithfully reflected the general opinion in the Committee that the article on self-determination should be dealt with first. The Costa Rican proposal (A/C.3/L.467) that the Committee should begin with the preamble was logical, but provided no guarantee that the established order would be adhered to thereafter. The Egyptian delegation had no objection to discussing any part of the draft covenants at the current session, but it must insist that a considerable part of the debate should be devoted to article 1.

9. Mr. KADHIM (Iraq) said that his delegation did not question the Secretary-General's right to make statements to United Nations organs, but in judging such statements it was necessary to consider whether they were timely, wise and helpful. Unfortunately, the statement in question (A/C.3/L.466) seemed to be none of those things, since, despite the Secretary-General's good intentions, delegations had not been consulted beforehand and the Committee had already spent two days discussing the issues raised.

10. Of the four proposals before the Committee, those submitted by Costa Rica (A/C.3/L.467), Saudi Arabia (A/C.3/L.468) and El Salvador (A/C.3/L.470) seemed to be complementary, and were likely to lead to a discussion in logical order, beginning with the preamble. The Danish proposal (A/C.3/L.469), however, seemed to be less wise. The only argument advanced in its favour had been that the question of self-determination was controversial and should therefore be postponed. The Iraqi delegation could not agree that the question was in fact controversial; all nations believed in the principle, although there were differences in their views on its implementation. Those differences

did not seem to constitute sufficient cause for postponement. According to the principles of modern psychology, it was best to begin with difficult problems, not with easy ones, unless the intention was to relegate those problems to the subconscious.

11. Mr. FERREIRA de SOUZA (Brazil) considered that the Danish proposal (A/C.3/L.469) was wise and conciliatory, since it would enable representatives to consider the Secretary-General's suggestions and to consult Governments on the new ideas that had been advanced.

12. He could not agree with the Costa Rican proposal (A/C.3/L.467), not for the reasons adduced by the United Kingdom representative (633rd meeting), who regarded the preamble as a summary of, rather than an introduction to, the draft covenants, but because a debate on the preamble would entail discussion of part I of the drafts. At the ninth session of the General Assembly the Brazilian delegation had submitted an amendment¹ to the preamble that was closely connected with article 1. In examining that amendment the Committee might become involved in a heated debate, and the Secretary-General's suggestions, which had not been carefully examined by delegations, would be touched upon.

13. The Indian representative's suggestion that the debate should begin with the discussion of part II, on the ground that it was logical to proceed article by article, seemed to be founded on abstract premises. It was often more logical to follow a more natural order than that of numerical sequence.

14. The Brazilian delegation was anxious that the right of self-determination should be embodied in the covenants; its views on that subject remained unchanged. However, it was aware of the dangers of beginning the debate with such a controversial subject.

15. Miss MAÑAS (Cuba) reaffirmed her Government's desire that the draft covenants should be given careful and painstaking study in an atmosphere of serenity. General Assembly resolution 833 (IX), in which the Committee was requested to discuss the draft covenants, article by article, "in an agreed order", left the establishment of that order to the Committee itself. She did not think it would help the Committee's work to begin with the most controversial articles, which were bound to lead to heated debate. She therefore supported the Danish proposal (A/C.3/L.469), which would enable the Committee to accomplish useful work and to approach the discussion of article 1 with a sense of achievement and in a spirit of harmony.

16. Mr. QUENTIN-BAXTER (New Zealand) regretted that some delegations had on the spur of the moment commented adversely on the statement made by the Secretary-General at the 633rd meeting. His own delegation would reserve its comments until it had made a careful study of that statement, which the Secretary-General had been fully entitled to present.

17. Without wishing to overlook the admirable work on the draft covenants done by the Commission on Human Rights, the expert help furnished by the Secretariat and the helpful comments obtained from Governments, he could not but note that the spirit of enthusiasm and common purpose which had led to the

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).*

adoption of the Universal Declaration of Human Rights was no longer present to ensure similar success in the Committee's current endeavours. Moreover, in addition to political controversies, the Committee would be faced with difficult technical problems, since the drafting of an international treaty of such scope was no easy matter.

18. Nothing would be gained by seeking to avoid controversial issues, but the draft covenants should not represent a victory of the majority over the strongly held opinions of the minority; to be of value, they must command universal acceptance. Consequently, the Committee's best chances of success lay in approaching the draft covenants in a constructive spirit, with a sympathetic understanding of the difficulties encountered by some countries with regard to certain articles. He thought therefore that the Committee should begin by considering some part of the draft covenants on which there were better prospects of agreement than on part I.

19. Mr. PAZHAWAK (Afghanistan) submitted an amendment to the Costa Rican proposal (A/C.3/L.467), consisting of the addition of the following passage:

“followed by the discussion of part I, article by article, in the present order in the draft covenants. The Committee will then continue to discuss other parts of the drafts, article by article, in the order in which they have been drafted.”

20. He also submitted a series of amendments (A/C.3/L.471) to the Danish proposal (A/C.3/L.469).

21. Mr. McCLURE-SMITH (Australia) said that the Committee was engaged in establishing “an agreed order” of consideration of the various articles, in accordance with General Assembly resolution 833 (IX). The Committee had before it four procedural proposals and had heard certain suggestions from the Secretary-General which required serious consideration. Most delegations would wish to consult their Governments regarding the Secretary-General's suggestions. Moreover, it would be detracting from the importance of the question and discourteous to the Secretary-General to take an imperfectly considered procedural decision.

22. He was opposed to the Costa Rican proposal (A/C.3/L.467) because a discussion of the preamble would necessitate consideration of the amendment submitted by Brazil at the ninth session of the General Assembly, calling for the deletion of article 1 and the insertion of its substance in the preamble. To begin with the preamble would thus be to plunge the Committee into a debate on self-determination, which he thought it wise to postpone. The Danish proposal (A/C.3/L.469), on the other hand, would enable delegations to give due attention to the Secretary-General's statement while making progress with some of the substantive articles of the draft covenants, and he therefore supported it. He would have no objection to fixing a specific time limit for consideration of part III of the draft covenants, as suggested by the Indian representative.

23. Mr. HOARE (United Kingdom) recalled that at the 634th meeting the Indian representative had said that he would like to have time for reflection and consultation on the issues raised in the Secretary-General's statement (633rd meeting and A/C.3/L.466); and several other delegations had since expressed the same desire. It was the usual United Nations practice to accede to such a request, even when it was made

by only one delegation, and he therefore assumed that the Committee would not insist on embarking immediately on a discussion of article 1 of the draft covenants (E/2573, annex I). The Committee should use the interim period, which should be of specified duration, to proceed with its work on some other part of the draft covenants.

24. There were three possible courses: it had been suggested that the Committee should begin with the preamble, with part II and with part III. A discussion of the preamble as it stood would not occupy the time of the Committee sufficiently, as there was very little disagreement on its terms. On the other hand, the Brazilian amendment to the preamble could not be discussed independently of part I, as it called for the deletion of article 1 and the inclusion of its substance in the preamble. Such a far-reaching change would involve protracted debate and would inevitably lead to a discussion on self-determination, which the Committee had agreed to postpone in accordance with the Indian request.

25. Part II was general in character and stated the obligations devolving upon States as a result of their acceptance of the articles in part III, but it contained some controversial points which had already given rise to lengthy debate in the Commission on Human Rights. Furthermore, it was not possible to discuss article 4 of the draft Covenant on Civil and Political Rights, on derogations from certain specified articles in time of public emergency, without having first discussed the articles to which that provision applied. The Committee might find itself involved in a complicated debate on difficult questions under part III when the time came to take up article 1.

26. The wisest course was to take up part III first. If it did so, the Committee would be considering matters of the same kind as those touched on in article 1, since part III dealt with specific rights and article 1 with the so-called right to self-determination. Certain technical, drafting and other problems would arise in connexion with the articles in part III, but they should not entail prolonged debate. The Committee could deal with each article in turn, thus accustoming itself to the delicate task of drafting such an important international instrument, and at the same time it would be able to interrupt its debate on part III to return to the discussion of article 1 whenever it wished.

27. The most convenient way of arriving at such a solution of the procedural question would be for the Danish representative to amend his proposal (A/C.3/L.469) slightly to specify that a definite period or number of meetings should be set aside for the consideration of part III.

28. Mrs. TSALDARIS (Greece), speaking on a point of order, said that various delegations had referred to the Secretary-General's “proposals”. In the opinion of her delegation, the Secretary-General was not empowered to make proposals under Article 100 or any other article of the United Nations Charter, or under the rules of procedure of the General Assembly.

29. She reserved the right to reply to the United Kingdom representative's remarks on the “so-called” right of self-determination during the discussion of article 1.

30. Mr. BAROODY (Saudi Arabia), speaking on the point of order raised by the Greek representative, said that the Secretary-General's statement might be con-

sidered to be in the form of proposals, on which delegations could comment. On the other hand, his proposals might be considered to be on the agenda of the Third Committee. In that case, there should be a general debate upon them, which he would be happy to open; but he did not think that the question was on the Committee's agenda.

31. With regard to the postponement of the debate on article 1 requested by the Indian representative, only a very short period was needed for consultation.

32. He reserved the right to reply to the United Kingdom representative's remarks at a later stage.

33. Mr. URQUIA (El Salvador) said that the debate on procedure gave the impression that human rights and self-determination had never been discussed in the United Nations, whereas various organs of the United Nations had already devoted much time to them.

34. His delegation had been disturbed by the Secretary-General's statement and by the comments of some delegations. It shared the doubts expressed by some representatives as to the Secretary-General's right to intervene with regard to the question whether self-determination could properly be discussed in connexion with the draft covenants. The General Assembly had already decided that the draft covenants should contain an article on self-determination, but the Secretary-General had proposed a different solution.

35. As so much time had already been spent by various United Nations bodies on the consideration and drafting of the text before the Committee, it was only right that the Committee should consider it in the form in which it had been drafted. The articles had not been inserted haphazardly, but followed a logical order which had been carefully debated. It had been maintained that it would be more logical to debate the preamble last, but he did not agree. The principles defined in the preamble were thoroughly familiar, not only to delegations, but to the general

public, and they could be discussed immediately. In the early days of the United Nations there had been great enthusiasm for all human rights, including the right of self-determination. Now, under the influence of certain Powers which were trying to stem the tide of history, the United Nations was being urged not to concern itself with the affairs of dependent peoples. It should be remembered, however, that the status of the Non-Self-Governing and Trust Territories was not intended to be permanent; they were eventually to become sovereign States.

36. He announced that he was going to submit a revised text of his proposal (A/C.3/L.470), which he had amended after consultation with the Costa Rican representative. If the draft covenants were not considered in the logical order he proposed, there was a danger that the Committee would reach the end of the session without having considered the most important articles.

37. Mr. NUÑEZ (Costa Rica) said that as his delegation was associated with the revised proposal introduced by the representative of El Salvador (A/C.3/L.470/Rev.1), he would withdraw the Costa Rican proposal (A/C.3/L.467).

38. Mr. PAZHWAK (Afghanistan) withdrew his amendment to the Costa Rican proposal, but reserved the right to submit amendments to the new proposal when he had studied its text.

39. He asked whether the wish for postponement expressed by the Indian representative should be considered as a formal proposal.

40. Mr. D'SOUZA (India) said that his delegation had made no formal proposal, as it had been under the impression that the preamble would be discussed first. It would support any proposal which would leave time for consultation.

The meeting rose at 1.10 p.m.