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Chairman: Mrs. Halima EMBAREK WARZAZI (Morocco).

AGENDA ITEM 62

Draft International Covenants on Human Rights (continued)

ADOPTION OF THE DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS AND THE DRAFT RESOLUTIONS RELATING THERETO (concluded) (A/C.3/L.1410)

1. Mrs. IDER (Mongolia) said that her delegation had been unavoidably prevented from attending the preceding meeting. Had it been present it would have voted in favour of both the International Covenants on Human Rights and would have abstained in the vote on the Optional Protocol to the International Covenant on Civil and Political Rights.
2. The CHAIRMAN invited the Committee to consider draft resolution A/C.3/L.1410 and drew attention to the fact that the Chilean delegation had proposed an amendment to the preamble, namely, the insertion of a reference to the Optional Protocol after the reference to the Covenants.
3. Mr. SANON (Upper Volta), introducing the draft resolution (A/C.3/L.1410) on behalf of the sponsors, said that its purpose was to give the Covenants the greatest possible publicity in order to ensure that they were speedily and effectively implemented. The reference to non-governmental organizations in paragraph 1 covered a variety of groupings, including trade unions and youth movements, which could give the instruments wide publicity and promote the widest possible implementation. Operative paragraph 2 was designed to give the Secretary-General all latitude in achieving the same purposes. The sponsors hoped that there would be general support for the draft resolution.
4. Mr. GROS ESPIELL (Uruguay) said that the Chilean amendment to the preamble of the draft resolution should apply also to the two operative paragraphs.

Thus the words "and the Optional Protocol to the International Covenant on Civil and Political Rights" would be inserted after the word "Covenants" in paragraphs 1 and 2.

5. The CHAIRMAN suggested that, since the Chilean delegation was a sponsor of the draft resolution, the delegation of Uruguay should now be regarded as the formal sponsor of the proposed amendments to both the preamble and the operative paragraphs.

6. Mr. GROS ESPIELL agreed.

7. Mr. NASINOVSKY (Union of Soviet Socialist Republics), referring to the observation of the representative of Upper Volta that non-governmental organizations should play a large part in giving effect to the Covenants, said that implementation was a matter for Governments. At no time during the debate on measures of implementation had there been any reference to non-governmental organizations. The introduction of that new element in the present draft resolution was therefore unwarranted. Furthermore, whereas in the amended draft resolution adopted at the previous meeting (A/C.3/L.1409 and Add.1) the Covenants had been given their full titles, in the present draft they were referred to merely as "the International Covenants on Human Rights", while, if the Uruguayan amendment was adopted, the Optional Protocol alone would bear its full title. The implication was that the Protocol was of greater importance than the Covenants.

8. Mr. SANON (Upper Volta), referring to the addressing of a request to non-governmental organizations, said that such a provision had been included in General Assembly resolution 2106 (XX) on the International Convention on the Elimination of All Forms of Racial Discrimination. As for the titles of the Covenants, he would have no objection to their being given in full.

9. Mr. GROS ESPIELL (Uruguay) said that his delegation was not seeking to give the Optional Protocol greater importance than the Covenants. Anyone interpreting the words "International Covenants on Human Rights" would know that they referred to the International Covenant on Economic and Social Rights and the International Covenant on Civil and Political Rights. However, his delegation would have no objection to the inclusion of the individual titles of those instruments.

10. Miss TABBARA (Lebanon) suggested that the three instruments concerned should be identified by their full titles in the preamble, and referred to as "these instruments" in operative paragraphs 1 and 2.

11. Mr. HANABLIA (Tunisia) considered the preamble adequate in its present form. He assumed that when the Covenants were distributed the Optional Protocol would automatically be distributed with them. He requested confirmation that that would be done.

12. Mr. SCHREIBER (Secretariat) said that since the matter had been the subject of controversy in the Committee, it was preferable that the Secretary-General should be given specific instructions concerning the documents which he should circulate.

13. Mrs. BARISH (Costa Rica) said that the Optional Protocol was permanently linked to the International Covenant on Civil and Political Rights and must therefore be circulated together with that instrument. She agreed, however, that the Committee should clearly state its wishes in the matter. She supported the drafting suggestion of the Lebanese delegation.

14. Mr. FINK (Denmark) accepted the Lebanese suggestion on behalf of his own delegation and the delegation of Chile, as co-sponsors of draft resolution A/C.3/L.1410.

15. Mrs. KOVANTSEVA (Byelorussian Soviet Socialist Republic) requested a separate vote on the words "and non-governmental organizations" in operative paragraph 1 of the draft resolution.

16. Mr. SAKSENA (India) said that as a sponsor of the draft resolution his delegation was unable to accept the Uruguayan amendment to the draft resolution of which his delegation was a co-sponsor. He was agreeable, on the other hand, to having the titles of the Covenants appear in full in the preamble.

17. The CHAIRMAN invited the Committee to vote on the draft resolution (A/C.3/L.1410) and the amendments thereto. The preamble, by agreement among the sponsors, would now refer to the two Covenants, giving their titles in full. The Uruguayan amendment called for the insertion of a reference to the Optional Protocol immediately following the reference to the International Covenant on Civil and Political Rights.

The Uruguayan oral amendment to the preamble was adopted by 51 votes to 11, with 27 abstentions.

The preamble, as amended, was adopted by 61 votes to none, with 27 abstentions.

The Lebanese oral amendment to operative paragraph 1, replacing the words "the Covenants" by the words "these instruments", was adopted by 59 votes to none, with 30 abstentions.

The words "and non-governmental organizations", in operative paragraph 1, were adopted by 56 votes to 15, with 19 abstentions.

Operative paragraph 1, as amended, was adopted by 61 votes to none, with 27 abstentions.

The Lebanese oral amendment to operative paragraph 2, replacing the words "the Covenants" by the words "these instruments", was adopted by 56 votes to 1, with 33 abstentions.

Operative paragraph 2, as amended, was adopted by 64 votes to none, with 25 abstentions.

The draft resolution as a whole, as amended, was adopted by 73 votes to none, with 17 abstentions.

DRAFT RESOLUTION ON THE ESTABLISHMENT OF NATIONAL HUMAN RIGHTS COMMISSIONS (A/C.3/L.1408)

18. The CHAIRMAN invited the Committee to consider draft resolution A/C.3/L.1408.

19. Mrs. ROBINSON (Jamaica), introducing draft resolution A/C.3/L.1408, recalled that her delegation had submitted an amendment (A/C.3/L.1407) to the draft Covenant on Civil and Political Rights proposing the insertion of a new article under which States parties would establish or designate a national commission on human rights or another appropriate institution to perform certain functions connected with the Covenant's implementation. The general view in the Committee had been that a proposal of such importance required thorough study by Governments. Her delegation had accepted the suggestion of the Belgian delegation that the proposal should be deferred until the following session. It had accordingly not pressed the proposal to the vote, thus facilitating the prompt completion of the Covenants. It now requested, through draft resolution A/C.3/L.1408, that the proposal should be placed on the agenda of the next regular session of the General Assembly and that Member States should in the meantime be invited to submit comments on the proposal. Her delegation had in mind that the proposal might be considered at the next session as a possible supplementary protocol to the Covenant.

Mr. Ronald Macdonald (Canada), Vice-Chairman, took the Chair.

20. Mr. SANON (Upper Volta) wished to know the exact form the proposal would take.

21. Mrs. ROBINSON (Jamaica) said that the proposal would be the one set out in document A/C.3/L.1407. Her delegation would be the one set out in document A/C.3/L.1407. Her delegation would be glad to prepare an explanatory note on the proposal if the Committee so desired.

22. Mr. KORNENKO (Ukrainian Soviet Socialist Republic) said that his delegation had opposed the Jamaican proposal because of the constitutional and legislative difficulties the article would have presented for his country. At the present stage, when the Covenants had just been adopted, it would be inappropriate to consider a proposal entailing a modification. The International Covenant on Civil and Political Rights included a procedure for amendment (article 51) and no proposal derogating from that procedure should be entertained. He was therefore unable to support the draft resolution.

23. Mrs. SOUMAH (Guinea) wondered whether consideration of the proposal at the twenty-second session might not involve reopening discussion of the Covenants.

24. Mr. NAÑAGAS (Philippines) said that despite the problems which the Jamaican proposal might entail, his delegation believed that the idea of national commissions on human rights was eminently worthy of further study. Most of the reservations concerning the original Jamaican proposal had related to the need for more time for study. Draft resolution A/C.3/L.1408 met that point and he would support it.

25. Mr. MIRZA (Pakistan) understood the draft resolution to be essentially a procedural motion which, if adopted, would not prejudge the attitude of the Committee or its members to the proposal when it was ultimately considered. In that light, and believing the proposal to deserve further consideration, he supported the draft resolution in principle. However, the proposal was an involved one requiring the kind of intensive study which the Third Committee itself could not afford to give it. Considering the history of the preparation of the Covenants, he suggested that the Jamaican proposal should be sent first to the Commission on Human Rights. The Commission had studied similar proposals before and its preliminary work on the proposal would certainly lighten the Third Committee's task. It might also be useful to transmit to the Commission the Saudi Arabian proposal on a related subject (A/C.3/L.1334).

26. Mrs. BERRAH (Ivory Coast) said that her delegation had been in favour of the Jamaican proposal but had had no formal instructions from its Government. She would accordingly support the draft resolution which would allow her Government time to study the proposal and prepare its comments. She hoped that the Jamaican delegation would consider the suggestion just made by the Pakistan representative.

27. Mr. RICHARDSON (Jamaica) said that it was certainly not his delegation's intention to seek to reopen the discussion on the Covenants. It had withdrawn its original proposal precisely in order that the Covenants might be completed at the present session. Regarding the Pakistan representative's suggestion, his delegation would not oppose the reference of the proposal to the Commission on Human Rights provided the proposal would still be placed on the agenda of the twenty-second session of the General Assembly.

28. Miss CAO-PINNA (Italy) said that the draft resolution met her delegation's concern that time should be allowed for thorough study of the Jamaican proposal. She endorsed the Pakistan representative's view that approval of the draft resolution would not prejudge the Committee's final decision in the matter.

29. Mr. BAHNEV (Bulgaria) observed that the Committee had just adopted the Covenants, each of which provided for a system of implementation. A further discussion of implementation at the next session would be illogical, because it would not yet be known how the implementation systems adopted were working and whether any changes were needed. Moreover, the Jamaican proposal would necessitate important constitutional and institutional changes for many countries. Consequently, he could not support draft resolution A/C.3/L.1408.

30. Mr. DINSTEIN (Israel) said that the Jamaican proposal deserved serious consideration by Governments and ultimately by the General Assembly. However, since the idea of setting up national commissions on human rights was new, he felt that, from a procedural viewpoint, it should first be studied in depth by the Commission on Human Rights as the competent functional commission. Only after such study by the Commission should the proposal be transmitted through the proper channel of the Economic and

Social Council for the consideration of the General Assembly. He therefore supported the Pakistan representative's suggestion.

31. Mr. LAZAREVIC (Yugoslavia) considered both the draft resolution and the Pakistan representative's suggestion unacceptable. The proposed procedure amounted to an amendment procedure, for the Covenants had been adopted and were subject to change only through amendment. It seemed to him illogical, however, to envisage a discussion on the possible amendment of an instrument which had not yet been opened for signature.

32. Mr. NASINOVSKY (Union of Soviet Socialist Republics) found it surprising that the Committee should be considering the study of a proposal amending the Covenant when the latter had only just been adopted by the Third Committee and had yet to be adopted by the General Assembly in plenary meeting. There was nothing to prevent a State from establishing a national commission on human rights if it wished to. That was a sovereign prerogative of States and there was no need to confirm it in an international instrument. On the other hand, no State could be told to establish such a commission, for the matter lay entirely within the sphere of domestic jurisdiction. The international community should require the implementation of an international instrument in force but the means of implementation were the affair of the individual States, where measures at the national level were concerned. He therefore failed to see what the Committee or the Commission on Human Rights could discuss with regard to the proposal. His delegation would oppose the draft resolution because it saw no need for consideration of the Jamaican proposal. Furthermore, no resolution was needed since a delegation could always request the inclusion of an item in the agenda of the General Assembly.

33. Mr. GUEYE (Senegal) said that before Governments and the Committee were asked to study the proposal a clear indication should be given of the precise role and functions of the proposed national commissions. Only then should a proposal be made to include the question in the Assembly's agenda. It might be best to refer the proposal to the Commission on Human Rights, which would formulate it clearly for the consideration of Governments.

34. Mr. MIRZA (Pakistan) said that his delegation had reached agreement with the Jamaican delegation that operative paragraphs 1 and 2 of the draft resolution A/C.3/L.1408 should be replaced by the following:

"1. Decides that this proposal should be transmitted to the Commission on Human Rights for its consideration;

"2. Requests the Secretary-General to invite Member States to submit their comments on the proposal in order that it, along with the comments, may be considered by the Commission on Human Rights;

"3. Decides that this proposal should be placed on the agenda of the twenty-second regular session of the General Assembly."

35. Mrs. AFNAN (Iraq) said that, although her delegation had no objection in principle to the establishment of national commissions and could have supported a draft resolution inviting countries to establish such commissions if they did not already exist, the Jamaican draft resolution (A/C.3/L.1408) called for national commissions which would be responsible for performing "certain functions pertaining to the International Covenant on Civil and Political Rights". However, there was nothing in that Covenant that warranted the establishment of such commissions. Since the human rights committee established under that Covenant would be responsible for the communications and reporting procedures, the proposed national commissions would presumably be concerned with exercising functions under the Optional Protocol concerning complaints by individuals. If so, that point should be made clear. She did not know what precisely the commissions were to do but would have thought that they should be concerned with the whole field of human rights rather than a single area of it. In any case she strongly opposed giving either Covenant more importance than the other.

36. The Pakistan representative's oral amendment, which had been accepted by the Jamaican delegation, raised technical difficulties. The Commission on Human Rights had a great deal of work to do and very little time in which to do it. Even if it did find the necessary time to consider the Jamaican proposal, it was not clear what else it was to do. Moreover, under the revised operative paragraph 2, the Commission was to base its discussion on comments by Governments. Since the Commission was to meet early in 1967, however, it was improbable that many such comments would have been received before the Commission met, particularly since Governments themselves would not know precisely on what they were expected to comment.

37. There was nothing to prevent the Jamaican delegation from requesting the inclusion of the item in the agenda of the General Assembly at its next session, when the Assembly might perhaps have before it a report by the Commission on Human Rights and comments by Governments. For those reasons she could not support the draft resolution in its present form.

38. Mr. GLAZER (Romania) observed that it augured ill if the Committee began to disregard the provisions of the Covenants two days after it had adopted them and even before they had entered into force. The Jamaican proposal in effect sought to amend both Covenants, neither of which provided for national commissions, without having recourse to the procedure laid down in article 29 of the International Covenant on Economic, Social and Cultural Rights and in article 51 of the International Covenant on Civil and Political Rights, two instruments which had been fifteen years in preparation. Moreover, the procedure envisaged in that proposal was the reverse of the procedure laid down in the Covenants, which provided that recourse to the General Assembly should be the culmination, and not the beginning, of the whole amendment procedure. His delegation could see no reason for trying prematurely to alter the Covenants and considered it dangerous for the Committee to

violate the procedure it had itself established. For those reasons it opposed the Jamaican proposal and urged that it should be withdrawn.

39. Mr. RICHARDSON (Jamaica) said that he would not comment on the substance of his proposal, which was not under discussion. His country was perfectly aware of its sovereign right to establish a national commission on human rights in Jamaica; its goal, however, was that the General Assembly should invite all States to establish such commissions. It was also aware that the Commission on Human Rights had a heavy agenda, but it saw no reason why the Third Committee could not ask the Commission to accord the matter priority. It was also fully aware of its right to request the inclusion of an item in the agenda of the General Assembly's twenty-second session and intended to exercise that right if the draft resolution was rejected; however, it wanted the other delegations which had supported the proposal to be able to join in supporting the item.

40. He hoped that the Commission on Human Rights would study such interesting suggestions as that by the Iraqi representative to the effect that the national commissions should be concerned with all human rights.

41. He assured the Romanian representative that the Jamaican proposal was in no way designed to change or amend the measures of implementation of the Covenant; it merely sought to add to them. The way in which the additional step proposed by his delegation should be handled would be for the General Assembly to decide.

42. His delegation could not agree to withdraw its draft resolution. It attached great importance to the matter and had withdrawn its earlier proposal only in order to facilitate the Committee's work.

43. Mr. ABUL NASR (United Arab Republic) said that he would have been able to support the revised text read out by the representative of Pakistan if it had provided merely for the transmission of the Jamaican draft resolution to the Commission on Human Rights; however, he could not support the proposal in its present form.

44. Mr. KORNENKO (Ukrainian Soviet Socialist Republic) considered that the Jamaican draft resolution violated the amendment procedure laid down in the final clauses of the International Covenant on Civil and Political Rights by providing for a new and different procedure. In his view, the Jamaican draft resolution fell within the scope of rule 122 of the rules of procedure.

45. Mrs. DAES (Greece) said that her delegation supported the Jamaican draft resolution, because it would give Member States an opportunity to study the substance of the proposal and would enable the Commission on Human Rights to consider and comment on that proposal.

46. Mr. MIRZA (Pakistan) said that it would obviously be premature for the Third Committee to decide the question of the functions of the proposed national commissions at the present stage as that would be precisely what the Commission on Human Rights would discuss in the light of the explanatory memorandum

to be submitted by the Jamaican delegation and the comments of Governments on the nature, composition and functions of the proposed commissions. The Commission would then submit specific proposals to the General Assembly, which would decide whether or not it would adopt those proposals and, if it did so, in what form. In his view, the most feasible method would probably be the adoption of a protocol, but if the General Assembly decided that the Covenant should be amended, then the amendments procedure laid down in that instrument would of course have to be followed. However, all those hypothetical questions would be answered by the General Assembly at its twenty-second session.

47. Mr. CAINE (Liberia) observed that it would be very useful if, before the Committee proceeded to vote, the Jamaican representative could indicate what comments his delegation intended to make in its explanatory memorandum.

48. Mr. RICHARDSON (Jamaica) said that his delegation proposed to submit its explanatory memorandum to the Commission on Human Rights, not to the Third Committee.

49. Mr. CAINE (Liberia) said that, since the Third Committee was required to take the initial decision on the Jamaican draft resolution, it would find some information on the contents of the Jamaican delegation's explanatory memorandum very useful.

50. Mr. DINSTEIN (Israel) suggested that, in conformity with established precedents and in order not to change the balance existing between the main organs of the United Nations, operative paragraph 1 should be redrafted to read "Requests the Economic and Social Council to transmit to the Commission on Human Rights the proposal ...".

51. Mr. NASINOVSKY (Union of Soviet Socialist Republics) observed that many points required clarification before the Committee could vote on the draft resolution. He therefore moved the adjournment of the meeting.

The motion was adopted by 49 votes to 12, with 14 abstentions.

The meeting rose at 1.40 p.m.