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 MEETING**



Wednesday, 16 November 1966,  
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*Chairman:* Mrs. Halima EMBAREK WARZAZI  
 (Morocco).

AGENDA ITEM 62

Draft International Covenants on Human Rights  
 (continued)

ARTICLES ON MEASURES OF IMPLEMENTATION  
 OF THE DRAFT COVENANT ON CIVIL AND  
 POLITICAL RIGHTS (continued) (A/2929, CHAP. VII;  
 A/5411 AND ADD.1-2, A/5702 AND ADD.1, A/6342,  
 ANNEX II.B, PARTS IV AND V; A/C.3/L.1355,  
 A/C.3/L.1356/REV.1, A/C.3/L.1373 AND ADD.1  
 AND ADD.1/CORR.1, A/C.3/L.1379/REV.1 AND  
 REV.1/CORR.1, A/C.3/L.1381, A/C.3/L.1382, A/  
 C.3/L.1387, A/C.3/L.1389-1391, A/C.3/L.1394-  
 1399, A/C.3/L.1402)

1. Miss RICHARDS (United Kingdom) stated that the purpose of the amendment submitted by her delegation (A/C.3/L.1356/Rev.1) had been to bring the provisions of paragraph 1 of article 33 into line with those of article 28; however, since article 28 had been reformulated, the amendment had become less relevant. Nevertheless, she was not entirely satisfied with the form of the text proposed for paragraph 1 by the sponsors of documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1; before considering whether to withdraw her own amendments, she would like to ask the sponsors of the proposed new version to agree to replace the phrase "as provided in" by the phrase "in accordance with", and the words "with a view to election to the vacant seat on the Committee" by the words "for the purpose of filling the vacancy".

2. Mrs. AFNAN (Iraq) and Mr. ABOUL NASR (United Arab Republic) said that they agreed to those changes.

3. Mr. SAKSENA (India) said that he agreed with the second change proposed by the United Kingdom delegation, because it would considerably improve the wording of the text, but he did not agree with the first; he requested the United Kingdom representative not to press for that change.

4. Mr. ELMENDORF (United States of America) observed that the phrase "as provided in" made it appear that paragraph 2 of article 28, which was referred to in article 33, dealt with vacancies to be filled, although such was not the case. The phrase "in accordance with" was therefore better.

5. Mr. BECK (Hungary) felt that the period of one month which the sponsors of documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1 would allow States parties for the submission of nominations was too short.

6. Mr. SAKSENA (India) said that the sponsors had simply taken the same period as had been laid down in the basic text submitted by the Commission on Human Rights (A/6342, annex II.B., parts IV and V); he personally had no objection to increasing it to two months.

7. Mr. BABAA (Libya) said that he, too, would agree to a longer period.

8. Mrs. BULTRIKOVA (Union of Soviet Socialist Republics) said that, while she appreciated the desire of the sponsors of the amendment that vacancies should be filled as soon as possible, she agreed with the representative of Hungary; indeed, in view of the slowness of correspondence between Headquarters and the various countries, a period of three months, as in the case of nominations for membership of the committee, would not be unreasonable.

9. Mr. SAKSENA (India) pointed out that the paragraph under discussion related only to the filling of one vacancy; the period of three months provided for earlier could be explained by the fact that it had to do with nominations for the election of all the members of the committee, but such a period did not seem necessary in the present instance.

10. The CHAIRMAN said she took it that the United Kingdom delegation had withdrawn its amendment to paragraph 1 of article 33 (A/C.3/L.1356/Rev.1, first amendment).

11. Mr. AKPO (Togo) announced that his delegation, in the interest of solidarity and as a result of its consultations with other delegations, would vote otherwise than it had intended, subject to the comments it had already made.

*Paragraph 1 of article 33, as proposed in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, as orally amended, was adopted unanimously.*

12. The CHAIRMAN invited the Committee to vote on the second amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, which

proposed the deletion from paragraph 2 of the words "International Court of Justice and".

*The second amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1 was adopted unanimously.*

13. The CHAIRMAN pointed out that the third amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, which sought the replacement in the second sentence of paragraph 2 of the word "proceed" by "take place", related only to the English and Spanish texts.

*The third amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1 was adopted by 87 votes to none, with 1 abstention.*

14. The CHAIRMAN said that, owing to the changes which had been made in the numbering of the paragraphs of article 29, as adopted at the 1421st meeting, the fourth amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, would call for the replacement in paragraph 2 of the words "articles 29 and 30" by the words "paragraph 4 of article 29, and with article 30 of this Covenant".

15. Mr. BAZAN (Chile) thought that mention should also be made of articles 28 and 31, since there did not appear to be any reason for not adopting the same principles in the case of an election to fill a vacancy as in the case of the election of the members of the committee.

16. Mr. SAKSENA (India) said that, once again, the sponsors of the amendment had followed the basic text. Article 31, unlike articles 29 and 30, dealt with the terms of office of the members of the committee, not with the elections as such, and it did not therefore seem necessary to mention it. Nevertheless, his delegation had no objection to a reference to articles 28 and 31 in the paragraph under discussion.

17. Mr. BAZAN (Chile) observed that article 31 dealt with elections to seats which became vacant; that was the reason why his delegation had suggested that it should be mentioned. Unless the sponsors of the amendment objected to the provision that the members of the committee should be eligible for re-election, it did not appear that a reference to article 31 should present any difficulty.

18. Mr. MIRZA (Pakistan) pointed out that, unlike article 33, which together with article 32 dealt with vacancies of an exceptional nature, article 31 dealt with vacancies arising normally at the expiry of the terms of office of the members of the committee; article 31 could not, therefore, be regarded as relevant for the purposes of the application of article 33.

19. He had no objection to mention being made of article 28 in article 33.

20. Mr. BAZAN (Chile) said that a mention of article 28 would fully meet his wishes, since it provided that members of the committee should be eligible for re-election to vacant seats.

21. Mr. SAKSENA (India) noted that, if paragraph 4 of article 29 was mentioned, the relevant paragraphs of the other articles cited should also be spelt out; in

order to avoid making the sentence unnecessarily long, he suggested that only the articles should be mentioned.

22. Mrs. AFNAN (Iraq) said that to mention article 28 without specifying the relevant paragraphs would be nonsensical, since the provisions of paragraph 3 of article 28, which provided that members should be eligible for re-election, were clearly at variance with the provisions of article 33, which governed the election of persons to replace members who had ceased to carry out their functions owing to death or resignation, or for any cause other than absence of a temporary character.

23. Mr. A. A. MOHAMMED (Nigeria) said that he, for one, did not see the need to mention article 28. Article 33 governed elections to seats which had become vacant; once a person was elected he became a member of the committee, and the provisions of article 28 then applied to him automatically.

24. Mr. PAOLINI (France) thought that there was some advantage in mentioning article 28 because, if there was a vacancy to be filled, it should be possible for a State to exercise the option available to it under paragraph 3 of that article of nominating a person who had been at one time, but had ceased to be, a member of the committee.

25. Mr. NAÑAGAS (Philippines) said that, since the article under discussion dealt only with the election procedure as such, mention should be made of paragraph 4 of article 29, which related to that procedure, but not of paragraph 3 of article 28.

26. Mr. BAZAN (Chile) proposed that, in order to overcome the difficulty, the wording "in accordance with the relevant provisions of this part of the present Covenant" should be adopted.

27. Mr. ELMENDORF (United States of America) supported the Chilean proposal. He suggested a slight change of form affecting only the English text, which would consist of replacing the words "the election for the vacancy" in the last sentence of paragraph 2 by the words "the election to fill the vacancy".

28. Mr. MIRZA (Pakistan) said that, in retaining the reference to articles 29 and 30, the sponsors of the amendment in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1 had endeavoured to adhere to the text of the Commission on Human Rights and had sought to establish a complete and precise procedure. If the Committee preferred to adopt a broader wording and to leave the procedure to be settled by the Secretary-General, he was prepared to agree to the Chilean proposal, but he emphasized that the text proposed was lacking in precision.

29. Mr. A. A. MOHAMMED (Nigeria) agreed to the text proposed by Chile and to the change of form suggested by the United States.

30. The CHAIRMAN invited the Committee to vote on the fourth amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, which, as orally modified, would amend the last phrase of paragraph 2 to read "in accordance with the relevant provisions of this part of the present Covenant".

*The fourth amendment to article 33 in documents A/C.3/L.1373 and Add.1 and Corr.1, as orally amended, was adopted unanimously.*

31. Mr. MIRZA (Pakistan) said he believed that the change of form proposed orally by the United States would improve the English text, and he proposed that it should be accepted without a formal vote.

32. The CHAIRMAN said that, if there were no objections, she would regard the amendment as adopted.

*The proposal was adopted without objection.*

*Article 33, paragraph 2, as amended, was adopted unanimously.*

33. The CHAIRMAN invited the Committee to consider the fifth amendment to article 33 in documents A/C.3/L.1373, and Add.1 and Add.1/Corr.1, which proposed a new text for paragraph 3.

34. Mr. SAKSĒNA (India) said, on behalf of the sponsors, that the proposed amendment consisted in the deletion of the second part of the original paragraph 3, since the provision it contained appeared in the new paragraph 1 of article 33, which the Committee had just adopted.

35. The CHAIRMAN put the amendment to the vote.

*Paragraph 3 of article 33, as proposed in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, was adopted unanimously.*

36. The CHAIRMAN invited the Committee to vote on article 33 as a whole, as amended.

*Article 33, as a whole, as amended, was adopted unanimously.*

37. The CHAIRMAN invited the Committee to turn to the amendment in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, which called for the deletion of article 34.

38. Mrs. AFNAN (Iraq) thought that article 34, paragraph 1, conflicted with article 32, since if "in the unanimous opinion of the other members, a member of the Committee had ceased to carry out his functions for any cause other than absence of a temporary character", it was not clear how he could remain in office. Paragraph 2 concerned a question of procedure. However, besides establishing a quorum of seven members, article 39 provided that decisions of the committee should be made by a majority vote of the members present, and that the committee should establish its own rules of procedure. Paragraph 2 of article 34 was therefore pointless and the whole article should be deleted.

39. Mr. SAKSĒNA (India) stressed that the Commission on Human Rights had invested the committee with some of the functions of a judicial organ, whereas the committee as now planned would have no such functions. Furthermore, article 34 implied that a member of the committee could cease to hold office for reasons other than death, resignation or illness. The Third Committee could not allow for such an eventuality.

40. Mr. NETTEL (Austria) referred to document A/2929 (chap. VII, para. 34), in which the Commission on Human Rights had said that the committee should not be regarded as a judicial organ. It had nevertheless included article 34 in the draft Covenant. The Indian representative's argument was therefore not convincing.

41. Mr. OSBORN (Australia) said that his understanding of the words "subject to the provisions of article 32" was quite different from that of the Iraqi representative. In his opinion, they meant "except in the cases provided for in article 32".

42. Mrs. AFNAN (Iraq) replied that the interpretation proposed by the representative of Australia had already been considered but that, even if it were accepted, she failed to see how a seat could be vacant for reasons other than those given in article 32. That being so, it was impossible for the member who had occupied the seat to remain in office until a successor had been elected.

43. Mr. MIRZA (Pakistan) said, in reply to the Austrian representative, that the undesirability of allowing the committee to be regarded as a judicial body was precisely the argument which had been adduced in support of a proposal mentioned in document A/2929 (chap. VII, para. 34), namely, that "if a member ceased to hold office when a case was pending, the case should be continued by the remaining members of the committee..."—a proposal which had been rejected. The organ which the Commission on Human Rights had had in mind was thus clearly a judicial organ, and that was what the sponsors of the amendment had wished to change.

44. Mr. OSBORN (Australia) said that, in view of the provision in article 31 with regard to the terms of office of members of the committee and of the quorum laid down in article 39, the deletion of article 34 would mean that at least three new members would find themselves having to make decisions on questions which they would not have been following. Moreover, the retention of the article would prevent questions of the hour from influencing the election of new members.

45. Mr. SAKSĒNA (India) said that the sponsors of documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1 had considered that a seat could be declared vacant only if its holder had resigned or found himself physically unable to attend the meetings of the committee. That being so, article 34 was superfluous.

46. Miss RICHARDS (United Kingdom) thought that all members of the Third Committee recognized that a member of the human rights committee would not normally be deprived of office against his will; changes in membership under article 32 were therefore not really the question. What article 34 really meant was that the members of the committee would remain the same while a particular matter was still under discussion by it.

47. Mrs. AFNAN (Iraq) pointed out that for a member of the committee to be able to continue to take part in the consideration of a matter before the committee at the time of his replacement, it would be necessary either for his term of office to be prolonged or for him to be re-elected.

48. Miss RICHARDS (United Kingdom) said that she had been referring specifically to article 34, paragraph 1, which determined the manner in which the replacement of members of the committee was normally to be effected, and provided for qualifications in certain circumstances.

49. Mr. SAKSENA (India) said that, as the committee was not a judicial organ, the use of the word "case" should be avoided.

50. Mr. HANABLIA (Tunisia) favoured the deletion of article 34 for practical reasons. The provisions of paragraph 1 of that article related to normal elections to the human rights committee. If a situation arose in which a seat had not yet been filled when the term of office of the holder expired—for example, because the candidate with the greatest number of votes had not obtained an absolute majority of the votes cast by the representatives, present and voting, of the States parties—the outgoing member would continue to hold office. However, if he lost his seat, under paragraph 1 he would still continue to be at the human rights committee's disposal even after the election of his successor. He might continue to sit alternately with the member succeeding him, an arrangement which was not particularly convenient from the practical standpoint, since it would involve a sort of "musical chairs" among members.

51. There were also drawbacks to article 34, paragraph 2. If the human rights committee met and found that a quorum, which under article 39 was seven members, could not be constituted, it would have to adjourn the meeting in order to ask the new member to attend. That meant, however, that the new member would have to be waiting outside the committee's meeting-room door. Since he might in fact be thousands of kilometres away, it was hard to see how the provision could be applied in practice.

52. Mr. PAOLINI (France) said that the intention of the authors of the draft submitted by the Commission on Human Rights had been to make it possible for a member whose term of office had expired to go on taking part in the consideration of a matter with which he had been dealing. The practical drawbacks to such a provision had certainly not been overlooked by the authors. The existence of two holders of one and the same seat would indeed result in a paradoxical situation, and the Commission on Human Rights had no doubt felt obliged to set aside such consideration because it had wished, above all, to ensure the continuity of the committee's work.

53. In fact, in the communications procedure at present contemplated, if the consideration of a question were unduly prolonged, a conciliation commission would probably be set up. As such a commission would be independent of the committee, and have a different membership, no problem would arise. For that reason, his delegation had decided to support the amendment in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1.

54. Mr. NAÑAGAS (Philippines) said that, as the human rights committee was not a judicial organ and as its main function would be to consider reports and make its good offices available, there was no need for the complicated system provided in article 34.

55. His delegation was agreeable to the retention of the first part of the article, which would make it possible to avoid any break in continuity in the committee's work.

56. Mrs. AFNAN (Iraq) pointed out that the body which the Committee had decided to set up was quite

different from that envisaged by the Commission on Human Rights. In accordance with article 32, paragraph 1, a seat was declared vacant after a unanimous decision had been taken by the other members of the committee. It would, therefore, be illogical to include a provision allowing a member whose seat had been declared vacant to continue to act in a case.

57. Mr. SAKSENA (India), replying to the Philippine representative, said that there would be no break in continuity, as nine of the committee's members would remain in office.

58. Mr. GESTRIN (Finland) said that he had heard no convincing argument for deleting the article which had been included on perfectly justifiable grounds.

59. Miss CAO-PINNA (Italy) recalled that, when the introductory part of paragraph 1 of article 40 had been adopted (1420th meeting), several delegations had said that the committee could act as a conciliation body. Now, however, delegations seemed to think that it should confine itself to studying reports.

60. Article 34 should be retained to ensure continuity in the committee's work, but the word "case" should be replaced by the word "matter".

61. Mr. GUEYE (Senegal) said that the sponsors of the amendments in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1 had very definite reasons for proposing the deletion of article 34. A seat could not be declared vacant if the former holder was allowed to continue to act. Resignations should take effect, and seats should be declared vacant, on dates selected to avoid any interference with the committee's work.

62. Miss RICHARDS (United Kingdom) said that if the committee were asked to use its good offices in a certain case, several months might pass before the case was settled. The deletion of article 34 would mean that nine new members might take office during that period if an election fell within it. Such changes in the membership of the committee during a conciliation procedure would be extremely unfortunate, as they might impair the operation of the system. Further, as the representative of Australia has pointed out, the particular matter under consideration might influence the elections themselves in an undesirable manner.

63. Mr. CARPIO (Guatemala) said that under the terms of article 32, paragraph 1, a member could not continue in office if the other members had unanimously decided that his post had become vacant. Paragraph 2 of the same article stated that the seat would be declared vacant by the Secretary-General. Those provisions were absolutely clear. Article 34 was therefore redundant, and his delegation would vote for its deletion.

*The amendment in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1, calling for the deletion of article 34, was adopted by 69 votes to 15, with 10 abstentions.*

64. The CHAIRMAN stated that no amendment had been proposed to article 35.

65. Mrs. DMITRUK (Ukrainian Soviet Socialist Republic) pointed out that according to article 8, paragraph 6, of the International Convention on the

Elimination of All Forms of Racial Discrimination, States parties were to be responsible for the expenses of the members of the committee while they were in performance of committee duties. She regretted that the expenses involved in the committee's work would have to be borne by the United Nations.

66. Mr. A. A. MOHAMMED (Nigeria) said that the Ukrainian representative's remark would be justified in the case of the ad hoc conciliation commission, but not in the case of the committee.

67. Mrs. SEKANINOVA-CAKARTOVA (Czechoslovakia) said that there were several points of similarity between the human rights committee and the Committee on the Elimination of Racial Discrimination. It was customary for States parties to certain instruments to defray the costs of bodies established by the instruments concerned, and it would be normal to apply that principle in the present case.

68. Mrs. AFNAN (Iraq) remarked that the committee would be required to consider reports on measures taken by States to give effect to the rights guaranteed under the Covenant, and that it was the duty of the United Nations, under the Charter, to ensure that human rights were fully guaranteed. Many speakers had quite rightly pointed out that the committee would be operating under United Nations auspices. The costs of the committee's work would represent only a very small percentage of the United Nations budget.

69. Mr. ELMENDORF (United States of America) thought that, while it was not possible at the time to make precise judgements, the Secretary-General's estimates of the costs were excessive. In particular, staff requirements had been over-estimated. According to document A/C.3/L.1382, it would be necessary to create two professional and two general service posts. The Secretariat should plan for the preliminary examination of reports, before the committee's meetings, to be undertaken not by the Secretariat, but by the members of the human rights committee.

70. The Charter provided that one of the purposes of the Organization was to promote human rights and the Covenants were intended to fill that purpose. Because the promotion of human rights was a major concern of the Organization, his delegation would vote for article 35, according to which the regular budget of the Organization and not the States parties would pay the expenses incurred under the Covenant. He also would vote for the amendments to article 36 contained in documents A/C.3/L.1373 and Add.1 and Add.1/Corr.1. Under paragraph 3 of the text proposed by the Commission on Human Rights, the Secretary-General would be authorized to appoint the secretary of the committee.

71. Mrs. KOVANTSEVA (Byelorussian Soviet Socialist Republic) observed that, according to document A/C.3/L.1387, the expenditure resulting from the establishment of the committee would amount to \$33,800 for 1967 and \$248,200 for 1968. In subsequent years, expenditure was likely to be even higher. In view of certain financial difficulties of the United Nations, it was not reasonable to impose new burdens

on it. The allocation of the sums in question from the United Nations budget might adversely affect the implementation of economic and social projects. Under the arrangement described in article 35, Member States which were not parties to the Covenant should be required to bear some proportion of the costs of the committee, and another situation could arise when States members of the specialized agencies which were not Members of the United Nations and which became parties to the Covenant would not be required to contribute to the costs of the committee, which would therefore have to be borne entirely by States Members of the United Nations. Accordingly, her delegation agreed entirely with the Ukrainian representative's proposal.

72. Mr. GUEYE (Senegal) said that, as no amendment had been proposed to article 35 and as the Committee had decided not to have a general debate on the draft, article 35 should be put to the vote immediately.

*Article 35 was adopted by 81 votes to none, with 14 abstentions.*

73. Mr. PAOLINI (France) said that he had supported the principle that the human rights committee should be financed by the United Nations, subject to the General Assembly's approval. The financial implications of the proposed draft would have to be considered by the Fifth Committee.

74. Mrs. MALECELA (United Republic of Tanzania) stated that her delegation had abstained from voting on article 35, as that article, too, had financial implications. In the discussion on the draft Covenant on Economic, Social and Cultural Rights, her delegation had expressed the view that the costs of the human rights committee should not be charged to the United Nations budget.

75. Mr. N'GALLI-MARSALA (Congo, Brazzaville) said that his delegation had abstained from voting on article 35, as each State was entitled to decide for itself whether or not to make a statement recognizing the competence of the committee. It would be illogical for a State which had not recognized the committee's competence to be obliged to contribute to the costs involved.

76. The CHAIRMAN asked the United Kingdom delegation if it was maintaining the proposal in document A/C.3/L.1356/Rev.1 for the insertion of a new article between articles 35 and 36.

77. Miss RICHARDS (United Kingdom) asked the Committee not to consider the proposed new article, which should logically be inserted between articles 35 and 36, until it had completed its consideration of articles 36 to 41.

78. Mr. MIRZA (Pakistan) hoped that the Legal Counsel would state exactly what privileges and immunities were normally accorded to officials of the United Nations and the specialized agencies.

79. The CHAIRMAN said that the Legal Counsel would provide the information requested.

Organization of work

80. The CHAIRMAN recalled that Tuesday, 15 November, had previously been fixed as the last day for the submission of amendments to the draft Convention on

Freedom of Information and the draft Declaration on Freedom of Information (agenda item 60). As the Committee was behind schedule in its work, that time-limit would not be strictly applied.

*The meeting rose at 1 p.m.*