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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 ECONOMIC, SOCIAL AND CULTURAL RIGHTS (continued) (A/2929, CHAP. IX; A/5411 AND ADD.1-2, A/5702 AND ADD.1, A/6342, ANNEX II.A, PART IV; A/C.3/L.1354 AND CORR.1, A/C.3/L.1357, A/C.3/L.1362)

1. The CHAIRMAN invited the Committee to continue the study of article 22 of the draft Covenant on Economic, Social and Cultural Rights (A/6342, annex II.A, part IV) and the proposed new version of that article contained in document A/C.3/L.1354/Corr.1. She pointed out that the word "general" before the word "observance" in the proposed new version of article 22 had been translated into French by the adverb "partout", whereas in the eighth amendment in document A/C.3/L.1354 it had been rendered as "général".
2. Mr. PAOLINI (France) agreed that the adverb introduced a geographical precision which did not appear in the English text, but felt that the spirit of the article was not thereby distorted. Perhaps the English text could be made to conform to the French text.
3. Mr. SAKSENA (India) felt that it would be better to do the opposite. The amendment had been submitted in English.
4. Mr. BAHNEV (Bulgaria) noted that the phrase "general observance of the rights" was reminiscent of Article 55 c of the United Nations Charter, which referred to "universal respect" for human rights. Did the English text really convey the idea of universality?
5. Mr. PAOLINI (France) proposed the wording "universal respect for the rights", because the term "universal", besides being taken from the Charter, adequately rendered the twofold notion of generality ratione materiae and ratione loci.

6. Mr. SAKSENA (India) found the suggestion unacceptable and urged retention of the existing English text for the reasons that he had explained at the previous meeting. In his view the words "universal respect" did not have the same meaning as the words "general observance".

7. The CHAIRMAN proposed retention of the French translation originally used in the eighth amendment in document A/C.3/L.1354, i.e. "en vue d'assurer le respect général des droits", which also corresponded to the Spanish version.

8. Mr. CAPOTORTI (Italy) noted that in the new version of article 22 the word "with" before the word "recommendations" had been translated into French by "contenant" and into Spanish by "acompañados". Perhaps the Spanish text should be made to conform with the French text.

9. The CHAIRMAN suggested that the matter should be left to the Secretariat translation services.

10. Mr. CARPIO (Guatemala) asked for a separate vote on the words "from time to time".

11. Mr. MIRZA (Pakistan) emphasized that the words "from time to time" had been included in the text so that it might correspond more closely with the text proposed by the Commission on Human Rights. Moreover, since in article 18, the Commission had decided to leave it to the Economic and Social Council, to the States Parties to the convention and to the specialized agencies to draw up the programme for the submission of reports, it would not be very logical to provide for too definite a calendar in article 22.

12. Mr. A. A. MOHAMMED (Nigeria) endorsed that view. Perhaps the Guatemalan representative would be satisfied if his opinion was noted in the record of the meeting.

13. Mr. CARPIO (Guatemala) noted that the original Spanish version of article 22 (A/6342, annex II.A, part IV) had used the adverb "periódicamente", which was more specific. He therefore maintained his request for a separate vote.

14. The CHAIRMAN invited the Committee to vote on the new version of article 22 contained in document A/C.3/L.1354/Corr.1.

The words "from time to time" in article 22 were retained by 50 votes to 27, with 17 abstentions.

Article 22 as a whole was adopted unanimously.

15. The CHAIRMAN invited the Committee to take up article 23 and the amendment thereto: the ninth amendment in document A/C.3/L.1354 which contained a new version of the article.

16. Mr. A. A. MOHAMMED (Nigeria) pointed out that in the new version of the article the word "on" between the words "technical assistance" and "matters arising" should be replaced by a comma. The correction affected only the English text.

Article 23 (A/C.3/L.1354, ninth amendment) was adopted unanimously.

17. The CHAIRMAN invited the Committee to take up article 24 and the amendment thereto: the tenth amendment in document A/C.3/L.1354 which contained a new version of the article.

18. Mr. PAOLINI (France) considered that the word "convention", in the French version of the amendment, should be in the plural.

19. Mr. A. A. MOHAMMED (Nigeria) made a similar observation in regard to the English text.

20. Miss TABBARA (Lebanon) agreed with the French representative's comment. She further proposed that the words "fourniture d'une assistance technique" in the French text should be replaced by "fourniture d'assistance technique".

21. Mr. OSBORN (Australia) suggested the insertion of "and the" before the words "holding of".

22. Mr. NASINOVSKY (Union of Soviet Socialist Republics) asked exactly what was meant by "technical meetings".

23. Mr. A. A. MOHAMMED (Nigeria) reminded the USSR representative that the Covenant concerned economic, social and cultural rights. Some of the meetings might therefore be technical.

Article 24 (A/C.3/L.1354, tenth amendment), as modified, was adopted unanimously.

24. The CHAIRMAN invited the Committee to take up article 25 and the amendment thereto: the eleventh amendment in document A/C.3/L.1354.

25. Mr. EGAS (Chile) said that the proposed amendment would limit the scope of the text by prohibiting only interpretations which would impair the application of the provisions of the Charter by the appropriate machinery.

26. Mr. MIRZA (Pakistan) pointed out that the Charter provisions themselves could not be impaired, but only their application; the eleventh amendment in document A/C.3/L.1354 was intended only to make article 25 stricter.

27. Mr. CAPOTORTI (Italy) observed that the Covenants might give rise to interpretations which, without impairing the actual text of the Charter, would derogate from some of its provisions. Article 25 had been inserted in the draft Covenant in order to prevent any such development. The problem was merely one of wording.

28. Mr. CAINE (Liberia) saw no practical purpose in the amendment and would like the sponsors to provide some specific examples in support of their proposal.

29. Mr. NAÑAGAS (Philippines) preferred the existing wording of article 25. The amendment would weaken the text considerably, since it dealt only with

the implementation of the principles of the Charter and not with the principles themselves.

30. Mr. RUMBOS (Venezuela) proposed that article 25 should read as follows: "Nothing in this Covenant shall be interpreted as impairing the full application of the provisions of the Charter of the United Nations ...".

31. Mrs. BARISH (Costa Rica) agreed with the representatives of Chile, Italy and Liberia and endorsed the Venezuelan representative's proposal.

32. Mrs. KOVANTSEVA (Byelorussian Soviet Socialist Republic) noted that there was a discrepancy in the Russian text of the eleventh amendment in document A/C.3/L.1354 and requested that the matter be clarified.

33. Mr. SALAZAR ROMERO (Peru), supported by Mr. AMIRMOKRI (Iran), Mrs. DAES (Greece) and Mr. ABOUL NASR (United Arab Republic), said that the wording the Venezuelan representative had proposed was quite acceptable.

34. Mr. PAOLINI (France) also supported the Venezuelan proposal but suggested that the words "the full application of" should be changed to "or their full application" and should be placed at the end of the sentence.

35. Mr. MIRZA (Pakistan) said that he could accept the Venezuelan proposal but not that of the French delegation, which would considerably limit the scope of the phrase.

36. Mr. CAPOTORTI (Italy) observed that, if the Venezuelan representative's proposal was adopted, the resulting text would be grammatically defective, for the words "full application" would have no complement and would then hang in suspense; the relative pronoun "which" could not be considered to have as its antecedent the words "of the Charter of the United Nations and of the constitutions of the specialized agencies", for that would mean that the instruments in question did no more than define the respective responsibilities of the various organs of the United Nations and of the specialized agencies in regard to the matters dealt with in the Covenant. If it was really desirable to insert the phrase in question in article 25 the wording the French representative had proposed should be used.

37. Mrs. HARRIS (United States of America) thought that the amendment lent itself to differing interpretations and might give rise to difficulties in the future.

38. After an exchange of views in which Mr. VAN DEN MAAGDENBERG (Belgium), Mr. N'GALLI-MARSALA (Congo, Brazzaville), Mrs. SOUMAH (Guinea), Mr. PAOLINI (France), Mrs. AFNAN (Iraq) and Mr. GONZALEZ de LEON (Mexico) took part, the CHAIRMAN suggested that the sponsors of the amendments in document A/C.3/L.1354 should draw up a new text which all delegations might accept.

The meeting was suspended at 12.20 p.m. and resumed at 12.45 p.m.

39. Mr. MIRZA (Pakistan) announced that in a spirit of compromise the sponsors of the amendments in document A/C.3/L.1354, noting that the eleventh amendment gave rise to confusion even though it entailed only a drafting change and was in no way intended to limit the scope of article 25, had agreed to withdraw that amendment so as to facilitate the Committee's work.

40. The CHAIRMAN invited the Committee to vote on the original text of article 25 (A/6342, annex II.A, part IV).

Article 25 was adopted unanimously.

41. The CHAIRMAN invited the Committee to take up the new article proposed in document A/C.3/L.1357, which had provisionally been numbered 25 bis.

42. Mr. SAKSENA (India) introduced the new article (A/C.3/L.1357) on behalf of the fourteen sponsors and said that it contained in a single, simple, principle that the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources should be unimpaired. He pointed out that the rights enunciated in the Covenant were rights of a special character in the sense that they did not merely need legal recognition by States Parties but presupposed the existence of a certain level of economic and social development in order that those rights be fully realized. He contended that such an economic and social development to a very large extent depended on the inherent right spelt out in the new article. He expressed the hope that the Committee would unanimously adopt the new article.

43. The CHAIRMAN announced that Afghanistan, Algeria, Congo (Brazzaville), Jordan, Libya, Mauritania, Mongolia and Panama wished to be added to the list of sponsors of the new article proposed in document A/C.3/L.1357.

44. Mr. QUADRI (Argentina) noted that the principle enunciated in the proposed new article was already set forth in article 1, paragraph 2 of the draft Covenant on Economic, Social and Cultural Rights, which stated that "The peoples may ... freely dispose of their natural wealth and resources". He could therefore see no need for the new article.

45. Mrs. HARRIS (United States of America) shared the Argentine representative's doubts. Certainly the principle of the right of all peoples to the full utilization of their natural wealth should be enunciated in the Covenant, but it already appeared in article 1. The new article might suggest that the implementation clauses impaired a principle enunciated in an earlier part of the Covenant, which was surely not the Committee's intention. She was therefore not in favour of the new article proposed in document A/C.3/L.1357.

46. Mrs. AFNAN (Iraq) observed that the right enunciated in article 1 was accompanied by restrictions which limited its scope, whereas the proposed article had the advantage of recognizing that the right was absolute. Thus there were only two possible solutions: either to revise article 1 or to adopt the proposed new article.

47. Mr. MWALE (Zambia) said that Zambia wished to be added to the list of sponsors of the new article proposed in document A/C.3/L.1357.

48. Mr. BECK (Hungary) endorsed the Iraqi representative's comments. The new article proposed in document A/C.3/L.1357 had his unqualified support.

49. Miss TABBARA (Lebanon) expressed approval of the proposed new article which made the scope of article 1 more specific. Although the Covenant was based on the Charter, it had been deemed necessary to specify in article 25 that nothing in the Covenant should be interpreted as impairing the Charter's provisions. Consequently it was not illogical to stress that nothing in the Covenant should be interpreted as impairing the principle of the right of peoples to utilize their natural wealth. The proposed new article was therefore not incompatible with article 1.

50. Mr. PAOLINI (France) understood the idea on which the text of the proposed article was based, but found it difficult to accept it in its present form. The adoption of that text would constitute an affirmation that the Covenant, in which the right of peoples to dispose freely of their natural resources was already expressly proclaimed, should not be interpreted in such a way as to impair that right. That was clearly a procedural device, as the Iraqi representative had recognized, and the proposal would actually constitute an amendment to article 1. However, it was not the proper time to submit such a text. When the Committee had adopted the implementation clauses and the final clauses it would have an opportunity to review the draft Covenant as a whole and it could then study the proposal as an amendment to article 1. Also, it was not possible to compare the reservation proposed in the new article with that in article 25, as the Lebanese representative wished to do, since respect for a particular right and the application of fundamental texts such as the Charter could not be put on the same footing. To give a particular right a privileged place would be an admission that some human rights ranked higher than others or that there were more fundamental rights to which others should be subordinated.

51. The CHAIRMAN suggested that the vote on the new article proposed in document A/C.3/L.1357 should be deferred and that the Committee should take up part IV of the draft Covenant on Civil and Political Rights.

52. Mr. BECK (Hungary), supported by Mr. PAOLINI (France), said that he thought it would be better to begin by considering the final clauses of the draft Covenant on Economic, Social and Cultural Rights, so that the Committee would be able to complete at least one of the two Covenants at the present session.

53. Mr. NASINOVSKY (Union of Soviet Socialist Republics) supported the Hungarian representative's suggestion; the Committee should first complete the draft Covenant on Economic, Social and Cultural Rights, which constituted a whole. That would facilitate its work on the second Covenant, as certain clauses in the first could be transposed to the second.

54. The CHAIRMAN noted that the Committee had originally decided to take up the implementation clauses of the Covenant on Civil and Political Rights before the final clauses, which were the same for the two Covenants.

55. Mr. RONALD MACDONALD (Canada) agreed with the Chairman's observations. The Committee should

try to complete both draft Covenants at the present session, in accordance with its original decision.

56. At the request of Mrs. AFNAN (Iraq), the CHAIRMAN said that the Hungarian motion would be decided upon at a later meeting.

The meeting rose at 1.30 p.m.