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DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

Report of the Third Committee

Rapporteur: Mrs. Marie Sivomey (Togo)

I. INTRODUCTION

1. At its 1129th plenary meeting, on 24 September 1962, the General Assembly allocated to the Third Committee, for consideration and report, agenda item 43, entitled "Draft International Covenants on Human Rights".
2. The draft Covenant on Economic, Social and Cultural Rights and the draft Covenant on Civil and Political Rights^{1/} have been under consideration by the General Assembly since its ninth session. Prior to the present session, the Third Committee had adopted the preamble and article 1 of each Covenant, articles 6 to 16 (substantive articles) of the draft Covenant on Economic, Social and Cultural Rights and articles 6 to 26 (substantive articles) of the draft Covenant on Civil and Political Rights.^{2/}

^{1/} For the text of the draft Covenants prepared by the Commission on Human Rights, see E/2573, annex I, A and B.

^{2/} See Official Records of the General Assembly, Tenth Session, Annexes, agenda item 28, document A/3077; ibid., Eleventh Session, Annexes, agenda item 31, document A/3525; ibid., Twelfth Session, Annexes, agenda item 33, document A/3764 and Add.1; ibid., Thirteenth Session, Annexes, agenda item 32, document A/4045; ibid., Fourteenth Session, Annexes, agenda item 34, document A/4299; ibid., Fifteenth Session, Annexes, agenda item 34, document A/4625; ibid., Sixteenth Session, Annexes, agenda item 35, document A/5000.

3. Accepting a suggestion made by the Chairman on the basis of arrangements previously agreed on by the Committee (A/C.3/L.1017), the Third Committee decided to consider, first, any substantive articles that might be proposed; to proceed then to the general provisions of each Covenant (part II, articles 2 to 5); and then to go on to the measures of implementation (part IV of the Covenant on Economic, Social and Cultural Rights and parts IV and V of the draft Covenant on Civil and Political Rights) and to the final clauses (part V of the Covenant on Economic, Social and Cultural Rights and part VI of the Covenant on Civil and Political Rights).

4. The Committee discussed the draft Covenants at its 1172nd, 1174th, 1175th, 1177th to 1185th, 1202nd to 1207th and 1209th meetings. It adopted articles 2 to 5 of the draft Covenant on Economic, Social and Cultural Rights and articles 3 and 5 of the draft Covenant on Civil and Political Rights (see annex). Furthermore, it recommended that the General Assembly should refer a new article on the rights of the child to the Commission on Human Rights for study and report and decided to postpone to the eighteenth session of the General Assembly consideration of a new article on the right of asylum; it also adopted a draft resolution on the implementation of and future work on the draft Covenants (see below, paragraphs 5 to 30; 31 to 35 and 116). The proceedings of the Committee are briefly described below.

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II. PROPOSALS FOR ADDITIONAL SUBSTANTIVE ARTICLES:

DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS

ARTICLE DEALING WITH THE RIGHTS
OF THE CHILD

5. The representative of Poland proposed that a new article be inserted after article 22 of the draft Covenant on Civil and Political Rights, to read as follows (A/C.3/L.1014):

"1. The child shall be entitled to special protection by society and the State.

2. Every child, without any exception whatsoever, shall be entitled to equal rights, without distinction or discrimination on account of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, whether of himself or of his family.

3. Birth out of wedlock shall not restrict the rights of the child.

4. The child shall be entitled from his birth to a name and a nationality."

At the 1174th meeting the representative of Poland announced that Yugoslavia had become a co-sponsor of the proposal.

6. The Committee discussed the proposal at its 1172nd, 1174th, 1175th, 1177th and 1178th meetings.

Amendments to the original proposal (A/C.3/L.1014)

7. Amendments to the proposal were submitted by Chile (A/C.3/L.1019); by the Dominican Republic, El Salvador and Venezuela (A/C.3/L.1020); and, orally, by the United Arab Republic (1174th meeting), the Congo, Brazzaville (1177th meeting) and Guatemala (1177th meeting).

8. The Chilean amendment (A/C.3/L.1019) was

(1) to replace paragraph 1 by the following text:

"Every child and young person shall be entitled to equality of rights, without any discrimination on account of filiation or any other status, with a view to ensuring, from the prenatal period until his coming of age, the full development of his physical, mental, moral and social personality. To

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that end, the States Parties to this Covenant undertake to take appropriate steps granting special protection, defence and assistance to all children and young persons"; and

(2) to delete paragraphs 2, 3 and 4.

9. The amendment of the Dominican Republic, El Salvador and Venezuela (A/C.3/L.1020) was to replace paragraph 3 by the following text:

"The laws of the States Parties to this Covenant shall be directed towards giving equal recognition to the rights of children born out of wedlock."

10. The oral amendments of the United Arab Republic (1174th meeting) were

(1) in paragraph 1, to replace the words "The child" by "Every child" and to insert the words "the family," before "society", so that the paragraph would read as follows: "Every child shall be entitled to special protection by the family, society and the State";

(2) to delete paragraphs 2 and 3; and

(3) in paragraph 4, to replace the words "The child" by "Every child", so that the paragraph would read as follows: "Every child shall be entitled from his birth to a name and a nationality".

11. The oral amendment of the Congo, Brazzaville (1177th meeting) was to change paragraph 3 to read as follows:

"Birth out of wedlock shall not restrict the rights of the child, provided that recognition of his rights does not prejudice those of the legitimate child."

12. The oral amendments of Guatemala (1177th meeting) were

(1) to change paragraph 2 to read as follows:

"The rights of the child and of the young person shall not be restricted on account of parentage or any other status of the child, the young person or his family.";

(2) to omit paragraph 3; and

(3) to change paragraph 4 to read as follows:

"Every child shall be entitled from his birth to a family, a name and a nationality."

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Revised proposal

13. At the 1177th meeting, Poland and Yugoslavia submitted a revised proposal (A/C.3/L.1014/Rev.1), indicating that they had tried to take into account many of the suggestions made during the discussion of the original proposal. The revised proposal read as follows:

"1. Every child shall be entitled to special protection by the family, society and the State, without any discrimination.

2. The family, society and the State shall give particular attention to the education of the rising generation and shall ensure them the widest opportunities for development.

3. The States Parties to this Covenant shall take steps to improve the legal status of children born out of wedlock.

4. Every child shall be entitled from his birth to a name and a nationality."

Amendments to the revised proposal (A/C.3/L.1014/Rev.1)

14. The representative of Chile maintained his amendment (A/C.3/L.1019) (see above, paragraph 8). An amendment was also submitted by Colombia (A/C.3/L.1021); further amendments were submitted orally by the United Arab Republic (1178th meeting) and Mauritania (1178th meeting). A working paper on the revised proposal was submitted by Peru (A/C.3/L.1023).

15. The Colombian amendment (A/C.3/L.1021) was to insert in paragraph 4, after the word "birth", the words "not only to education and food, but also".

16. The oral amendment of the United Arab Republic (1178th meeting) was to retain only paragraphs 1 and 4, with paragraph 1 reading as follows: "Every child, without any discrimination, shall be entitled to special protection by the family, society and the State".

17. The oral amendment of Mauritania (1178th meeting) was to replace, in paragraph 1, the words "special protection" by "necessary protection" and to delete from paragraph 4 the words "from his birth".

18. The Peruvian working paper on the revised Polish-Yugoslav proposal suggested the following text (A/C.3/L.1023):

- "1. Every minor shall be entitled, in addition to care from his family, to special protection by society and the State.
2. This protection shall relate to nutrition, health, education, working conditions and all matters which are outside the family's sphere of action or in which its action may be inadequate.
3. Birth out of wedlock shall not limit any of the inherent rights of the human person recognized in this Covenant.
4. The child shall be entitled from his birth to a name and a nationality. He shall likewise be entitled to the recognition of his filiation and to the discharge of the obligations this entails. An unborn child shall be deemed to be already born in all respects in which he stands to benefit."

Issues discussed

Desirability of including an article on the rights of the child

19. While there was general agreement that children were entitled to special protection, opinion was divided as to the desirability of including in the Covenant on Civil and Political Rights an article dealing specifically with the rights of the child.
20. Those in favour of including such an article held, inter alia, that the Committee had adopted a provision concerning special protection of the child in respect of economic, social and cultural rights^{3/} and should do the same in respect of civil and political rights; that, since the requirements of the child were in many respects different from those of the adult, a separate article should be devoted to the rights of the child; and that the rights proclaimed in article 25 (2) of the Universal Declaration of Human Rights and in the Declaration of the Rights of the Child should be embodied in legally binding instruments.

^{3/} Article 10 (3) of the draft Covenant on Economic, Social and Cultural Rights, reading: "Special measures of protection and assistance should be taken on behalf of all children and young persons without any discrimination for reasons of parentage or other conditions. Children and young persons should be protected from economic and social exploitation. Their employment in work harmful to their morals or health or dangerous to life or likely to hamper their normal development should be punishable by law. States should also set age limits below which the paid employment of child labour should be prohibited and punishable by law." Official Records of the General Assembly, Eleventh Session, Annexes, agenda item 31, document A/3525, paras. 86 to 119.

21. Those opposing the inclusion of a special article held, among other things, that the rights enumerated in the Covenants would apply to all human beings, and hence also to children; that to adopt a separate article on the rights of one particular group would raise doubts as to the universal applicability of the other articles; and that such provisions as were necessary for special protection of children had already been included in certain substantive articles of the draft Covenant on Civil and Political Rights.

Contents of the draft article

22. In discussing the Polish-Yugoslav proposal, the Committee was mainly concerned with the following questions: the advisability of a non-discrimination clause applicable to children, in addition to the general non-discrimination clause in article 2;^{4/} the question of the rights of children born out of wedlock; and the question of the right of the child to a nationality.

23. In favour of a special clause guaranteeing the rights of the child without any discrimination, some representatives argued that it was a matter of ensuring equality of treatment and of opportunity for all children and that this should be clearly brought out in the Covenant, even at the risk of some repetition. Others, however, argued that article 2 already prohibited discrimination in respect of any person, child or adult; that the proposal under consideration did not mention any rights separate from or additional to those guaranteed to all individuals; and that the draft in question did not specify the rights which it sought to protect.

24. There was general agreement that children born out of wedlock should be protected from discrimination. It was pointed out in this connexion that article 2 as at present drafted would obligate States Parties "to respect and to ensure to all individuals ... the rights recognized in this Covenant, without distinction of any kind, such as ... birth or other status" - a formulation which would cover persons born out of wedlock. Several representatives said that it would be desirable to omit, from civil status documents, all references as to whether

^{4/} Article 2 of the draft Covenant on Civil and Political Rights has not yet been adopted by the Third Committee. Article 2 of the draft Covenant on Economic, Social and Cultural Rights, containing comparable provisions in respect of non-discrimination, was subsequently adopted by the Third Committee at its 1206th meeting (see annex).

persons were born in or out of wedlock. On the question, however, whether a child born out of wedlock should be entitled to inherit from its father or should enjoy equality of rights of inheritance, opinions differed very considerably. On the one hand, it was argued that, if the child enjoyed such rights, the stability of the family would be threatened and that in particular the rights of children born, in wedlock, of the same father would be lessened. On the other hand, it was maintained that, if the father realized that he was bound by equal responsibilities in respect of all his children, that would tend, rather, to strengthen the stability of the family. It was pointed out that the clause regarding the rights of the child born out of wedlock, as contained in the original proposal, did not define the rights which it was designed to protect. The question of the establishment of paternity was also mentioned. Throughout the discussion, emphasis was placed on the highly different ways in which existing legal systems dealt with the whole question, and it was observed that the problem was a difficult one.

25. On the question of the child's right to a nationality, there was agreement that every effort should be made to prevent statelessness among children, and a number of representatives supported the insertion of a provision in that sense. Others pointed out, however, that precisely because of the complexity of the problem no article on the right of everyone to a nationality had been included in the draft Covenants on Human Rights, despite the fact that such an article was contained in the Universal Declaration of Human Rights; and that attempts to solve the very difficult problem of statelessness had been made in several international instruments, particularly in the Convention on the Reduction of Statelessness concluded in 1961.^{5/}

26. The Committee also discussed the roles of the family and of the State in the protection of the child. Some delegations remarked that the absence, from the first paragraph of the article proposed, of any reference to the family seemed to imply disregard of the rights and duties of the family in respect of the child. The child, it was stressed, belonged first and foremost to the family. The protection owed to it by the State or by society should derogate neither

^{5/} The text of the Convention is contained in document A/CONF.9/15.

from the rights and responsibilities of the family in respect of the child, nor from the integrity of the family, which was the basic cell of society. The question of the rights of the unborn child and that of the child's right to a name, especially in its application to children born out of wedlock, were raised. Mention was made of the study of discrimination against persons born out of wedlock initiated by the Sub-Commission on Prevention of Discrimination and Protection of Minorities. The question was also raised whether the expression "child", in the context of the proposed article, was meant to include adolescents. A few representatives touched on the possibility of concluding a separate convention on the rights of the child.

Procedural Proposals

27. At the 1177th meeting, the representative of Saudi Arabia submitted a procedural proposal for adoption by the General Assembly, reading as follows (A/C.3/L.1022):

"The General Assembly

1. Decides to refer to the Commission on Human Rights all the proposals relating to an article on the rights of the child together with the discussion thereon at the seventeenth session of the General Assembly for serious study, taking into consideration all the legal implications of including such an article in the draft Covenants;

2. Requests the Commission to report through the Economic and Social Council to the General Assembly at its eighteenth session on its deliberations."

28. Subsequently, at the 1178th meeting, the representative of Saudi Arabia accepted an oral amendment by the representative of the United Arab Republic, proposing that the words "serious study" in paragraph 1 should be replaced by the words "thorough study". He also accepted the oral amendments submitted at the same meeting by the representative of Chile, proposing that the words "to request the Economic and Social Council" should be inserted after the word "decides" in paragraph 1 and that a new paragraph should be inserted between paragraphs 1 and 2 reading as follows:

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"Requests the Secretary-General to send to the Governments of Member States and to the specialized agencies the documents mentioned in the previous paragraph so that they may submit their comments thereon to the Commission on Human Rights;"

29. In support of the Saudi Arabian proposal it was pointed out that the Committee could not discuss thoroughly all the questions arising out of the proposed article on the rights of the child, let alone adopt a satisfactory article at the present session. It would be better, therefore, to refer the draft article to the Commission on Human Rights for thorough study and report, especially as the Commission had never discussed an article on the rights of the child for inclusion in the draft Covenants. Some representatives contended, however, that the Third Committee should not evade its responsibilities and should continue its discussion of the draft article at the present session. It was also considered that the Third Committee should take a decision on the proposed article, since the different legal systems and cultures of the world were better represented in the Committee than in the Commission on Human Rights which had only twenty-one members. Some representatives thought it possible to reach an agreement at the present session of the Assembly and urged the Committee to postpone consideration of the article for a few days so that interested delegations could present a generally acceptable draft article. At its 1178th meeting, however, the Committee rejected by 37 votes to 32, with 15 abstentions, the motion of the representative of Venezuela to adjourn the debate for two or three days to permit consultations among the members of the Committee.

30. At the same meeting, the procedural proposal of Saudi Arabia (A/C.3/L.1022), as amended was adopted by 79 votes to 4, with 8 abstentions (see para. 117 below, draft resolution A).

ARTICLE ON THE RIGHT OF ASYLUM

31. The representative of the Union of Soviet Socialist Republics proposed that the following new article (A/C.3/L.1013) should be inserted in the draft Covenant on Civil and Political Rights:

"The right of asylum is guaranteed to all persons persecuted for their activities in support of peace and in defence of democratic interests, for their participation in the struggle for national liberation or for their scientific work.

"States granting asylum shall not permit or encourage the employment of persons who have been granted asylum for purposes of espionage, subversion or sabotage against other States."

32. The Committee discussed this proposal at its 1179th, 1180th and 1202nd meetings. The main points raised during the consideration of this question were the desirability of including an article on the right of asylum in the Covenant on Civil and Political Rights, the nature of the right of asylum, the criteria governing the grant of the right of asylum and the activities of persons enjoying the right of asylum. Reference was also made to the need to take the experience of the newly independent countries into consideration in examining the right of asylum.

33. At the 1179th meeting, the representative of France proposed that in view of the complexity of the questions raised, consideration of this draft article (A/C.3/L.1013) should be deferred until after the Committee had considered agenda item 46 concerning the draft Declaration on the Right of Asylum. He pointed out that the draft Declaration prepared by the Commission on Human Rights dealt with the matter in great detail and also represented a compromise text. In that way, the Third Committee would have before it the results of a wider discussion of the problems involved. The USSR representative supported that proposal (1180th meeting).

34. At its 1180th meeting, the Committee adopted the French proposal by 78 votes to none, with 2 abstentions.

35. Subsequently, at its 1202nd meeting, the Committee adopted by 67 votes to none, with 6 abstentions, the following oral proposal by the representative of Saudi Arabia:

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"The Third Committee

"Decides to postpone consideration of the proposed new article on the Right of Asylum for inclusion in the draft Covenant on Civil and Political Rights submitted by the Union of Soviet Socialist Republics to the eighteenth session of the General Assembly."

III. PART II OF THE DRAFT INTERNATIONAL COVENANT ON
ECONOMIC, SOCIAL AND CULTURAL RIGHTS

36. The Committee considered part II (articles 2-5) of this draft Covenant from its 1181st to its 1185th meetings and from its 1202nd to its 1207th meetings.

ARTICLE 2

37. The text of article 2 of the draft Covenant on Economic, Social and Cultural Rights proposed by the Commission on Human Rights (E/2573, annex I A) was as follows:

"1. Each State Party hereto undertakes to take steps, individually and through international co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this Covenant by legislative as well as by other means.

"2. The States Parties hereto undertake to guarantee that the rights enunciated in this Covenant will be exercised without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status."

Amendments submitted

38. Amendments were submitted by Costa Rica (A/C.3/L.1025) to paragraph 1; by the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1026 and Rev.1 and 2) to paragraph 1; by Indonesia (A/C.3/L.1027 and Rev.1 and 2) to paragraph 2; by Burma and Indonesia (A/C.3/L.1027/Rev.3 and 4), to insert a third paragraph; by Argentina, Italy and Mexico (A/C.3/L.1028 and Rev.1 and 2) to paragraph 2; by Belgium (A/C.3/L.1030) to paragraph 2; by Bolivia, Chile, Colombia, Mali and Uruguay (A/C.3/L.1046 and Rev.1 and 2) to paragraph 1; by Nigeria (A/C.3/L.1052) to paragraph 2; and by Lebanon and Morocco (A/C.3/L.1054 and Add.1), to combine the two paragraphs of paragraph 2 into a single paragraph. Ghana submitted a sub-amendment (A/C.3/L.1032) to the United Kingdom amendment (A/C.3/L.1026/Rev.1). Saudi Arabia submitted orally a sub-amendment (1204th meeting) to the five-Power amendment (A/C.3/L.1046/Rev.2). Poland submitted an oral sub-amendment (1205th meeting) to the amendment of Burma.

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and Indonesia (A/C.3/L.1027/Rev.3). Jordan submitted a text (A/C.3/L.1053) first as a sub-amendment to the amendment of Burma and Indonesia (A/C.3/L.1027/Rev.3), then (1206th meeting) as a separate proposal for the insertion of a third paragraph.

Amendments to paragraph 1

39. The amendment of Bolivia, Chile, Colombia, Mali and Uruguay (A/C.3/L.1046) was to replace the words "through international co-operation" by the words "with international assistance and financial and technical co-operation". The revised five-Power amendment (A/C.3/L.1046/Rev.1) proposed the insertion of the word "especially" before the words "financial and technical". In a second revision (A/C.3/L.1046/Rev.2), the word "financial" had been replaced by the word "economic", so that the amendment in its final form proposed to replace the words "through international co-operation" by the words "with international assistance and co-operation especially economic and technical". The oral sub-amendment of Saudi Arabia (1204th meeting) proposed to replace the word "with" by the word "through" in the five-Power amendment (A/C.3/L.1046/Rev.2).

40. The amendment of Costa Rica (A/C.3/L.1025) proposed the insertion of the words "and at an accelerated rate" after the word "progressively". This amendment was withdrawn at the 1203rd meeting.

41. The amendment of the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1026) was to replace the words "as well as by" by the word "or". Following a first revision (A/C.3/L.1026/Rev.1), the phrase proposed in this amendment read as follows: "by all appropriate means including legislative measures". The sub-amendment of Ghana (A/C.3/L.1032) to the revised United Kingdom amendment (A/C.3/L.1026/Rev.1), to insert the word "particularly" between the words "including" and "legislative", was accepted by the United Kingdom. Accordingly, the phrase proposed, after a second revision, in the United Kingdom amendment was as follows (A/C.3/L.1026/Rev.2): "by all appropriate means including particularly legislative measures".

Amendments to paragraph 2

42. The amendment of Lebanon (A/C.3/L.1054) proposed the combination of the two paragraphs of article 2 into a single paragraph 2 reading as follows:

"Each State Party hereto undertakes to take steps, individually and through international co-operation, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this Covenant by legislative as well as by other means and without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status;".

This amendment was withdrawn at the 1206th meeting.

43. The first amendment of Nigeria (A/C.3/L.1052, para. 1) was to add the following at the beginning of paragraph 2: "Without prejudice to the validity of measures adopted to promote social justice and the general welfare of the people,". The second Nigerian amendment (A/C.3/L.1052, para. 2) was to replace the words "The States Parties hereto undertake to guarantee that the rights enunciated in this Covenant will be exercised" by "each State Party hereto undertakes to respect and to ensure to all individuals the rights recognized in this Covenant". The second of these amendments was withdrawn at the 1204th meeting.

44. The amendment of Argentina, Italy and Mexico (A/C.3/L.1028) was to replace the words "that the rights enunciated in this Covenant will be exercised without distinction of any kind" by "the recognition and the enjoyment of the rights enunciated in this Covenant without discrimination on any ground". Following a first revision (A/C.3/L.1028/Rev.1), the amendment read as follows: "Replace the word 'distinction' by the word 'discrimination'". In its final form (A/C.3/L.1028/Rev.2), the three-Power amendment proposed the following text at the end of paragraph 2: "without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.".

45. The amendment of Belgium (A/C.3/L.1030) was to add at the end of paragraph 2 the words "and without prejudice to specific provisions giving protection on grounds of age or of sex". This amendment was withdrawn at the 1204th meeting.

Proposals to add a third paragraph

46. The amendment of Indonesia, in its first two forms (A/C.3/L.1027 and Rev.1), related to paragraph 2. The proposal in document A/C.3/L.1027 was to replace the words "The States Parties" by "The State Party" and to insert "to all its

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citizens" after "undertake to guarantee". In the revised amendment (A/C.3/L.1027/Rev.1), the forms of words proposed were, respectively, "Each State Party hereto undertakes" and "to all its nationals". The subsequent revisions of the amendment (A/C.3/L.1027/Rev.2 to 4) proposed the addition of a third paragraph to article 2. In document A/C.3/L.1027/Rev.2, Indonesia proposed the addition of the following paragraph:

"3. Each State Party, in the exercise of its sovereignty and with due respect for human rights, determines to what persons it would guarantee the rights recognized in this Covenant."

The third revision of the amendment (A/C.3/L.1027/Rev.3), submitted jointly by Burma and Indonesia, was worded as follows:

"3. Each State Party, in the exercise of its sovereignty and with due regard for human rights and its national economy, determines to what extent it would guarantee particularly the economic rights recognized in this Covenant to non-nationals."

An oral sub-amendment of Poland (1205th meeting) was accepted by the sponsors, so that the amendment of Burma and Indonesia, in its final form (A/C.3/L.1027/Rev.4) proposed the addition of the following third paragraph to article 2:

"3. Developing countries, with due regard for human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in this Covenant to non-nationals."

47. Jordan had submitted the following sub-amendment (A/C.3/L.1053) to the revised amendment of Burma and Indonesia (A/C.3/L.1027/Rev.3):

"3. Each State Party shall guarantee to non-nationals the enjoyment of the economic rights enunciated in this Covenant to the extent that this does not prejudice its national economy."

48. At the 1206th meeting, Jordan submitted this text as a separate amendment to add a new paragraph to article 2.

Questions examined

Paragraph 1

49. All speakers recognized that in view of the inadequacy of resources in many countries and the time needed to develop them, it was important to impose on

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States Parties to the Covenant only the obligation of achieving "progressively" the realization of economic, social and cultural rights. The considerable difficulties which would be experienced by the developing countries desirous of applying the Covenant were mentioned.

50. It was also agreed that the development of resources in each country depended on the continuation and intensification of assistance and international co-operation. The amendment submitted by Bolivia, Chile, Colombia, Mali and Uruguay (A/C.3/L.1046/Rev.2) stressed that idea and particularly the importance of economic and technical co-operation.

51. Some representatives felt that the proposal concerning certain aspects of international co-operation was out of place in the draft Covenant and tended to underestimate the importance of such co-operation in other fields. Other speakers expressed the fear that by making international assistance an essential condition for the application of the Covenant, the five-Power amendment might have the effect of subordinating economic, social and cultural progress, in the last analysis, to the good will of the countries providing such assistance. The oral sub-amendment of Saudi Arabia was intended to make the proposed text more flexible. The majority of the Committee adopted that sub-amendment and subsequently the amended five-Power proposal, after its sponsors had stated that they did not wish to exclude any form of international co-operation and after they had fully recognized the need for the individual efforts of each State.

52. The amendment of Costa Rica (A/C.3/L.1025) made it clear that the development of resources and the application of the Covenant should be achieved "at an accelerated rate" in order to prevent, in particular, the delaying tactics employed by certain groups from impeding the efforts made by the developing countries. All speakers agreed with the spirit of that amendment, but several representatives considered that a more precise legal formula should be sought. Others felt that the idea of maximum speed was already contained in the original text.

53. The United Kingdom amendment (A/C.3/L.1026) was designed to allow States Parties to the Covenant to take either legislative or other measures, depending on the nature of the rights concerned and the conditions in each country. In

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the opinion of several representatives, that amendment underestimated the importance of the legislative measures necessary to ensure economic and social progress and unduly weakened the text of article 2. Nevertheless, the majority of the Committee subsequently approved the revised United Kingdom amendment (A/C.3/L.1026/Rev.2), together with the sub-amendment of Ghana (A/C.3/L.1032), which, while allowing States some latitude in the choice of appropriate methods, stressed the particular importance of legislative measures.

Paragraph 2

54. Some representatives expressed reservations concerning the use of the word "guarantee"; they would have preferred a more flexible term such as "ensure". It was pointed out, for example, that the exercise of certain rights was sometimes regulated by agreements between individuals or groups and by judicial decisions and that the State was not always in a position to intervene in such arrangements in order to "guarantee" the exercise of the rights recognized in the draft Covenant. However, no amendment was submitted on that point.

55. The amendment submitted by Argentina, Italy and Mexico in its initial form (A/C.3/L.1028) was designed particularly to make it clear in proper legal language that the States Parties to the Covenant should guarantee both "the recognition" and "the enjoyment" of the rights set forth in the draft Covenant. Several representatives felt that the amendment was superfluous, for the enjoyment of rights presupposed their recognition. Also, the fear was expressed that such a distinction might provide an excuse for undue delays in the application of the Covenant.

56. Some speakers felt that the word "distinction", being taken from the Charter of the United Nations and the Universal Declaration of Human Rights, was appropriate. One of them took the view that paragraph 2 in that form expressed very well the fundamental idea that everyone, despite the insistence of physical, economic, social or cultural differences between individuals, should enjoy equal rights.

57. A number of other representatives felt that the word "distinction" was too broad in its meaning and would have the effect of prohibiting the adoption of

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legitimate measures designed precisely to safeguard and promote the rights of certain categories of persons.

58. It was generally recognized, for instance, that the protective measures taken by various States for the benefit of certain socially and educationally backward groups of the population were aimed at re-establishing equality and could not, therefore, be violations of article 2. It was decided that that interpretation of paragraph 2, which was accepted unanimously by the Committee, should be specially mentioned in the report.

59. The purpose of the amendment of Belgium (A/C.3/L.1030) was to make it clear that States Parties would be free to adopt measures for the protection of individuals by reason of their age or sex, particularly with respect to the right to work and the right to social security. Several representatives, while not denying that such measures were sometimes called for, expressed the fear that, if the concept of protection was emphasized in that way, it might easily give rise to the mistaken idea that the persons protected were inferior. It was also maintained that the amendment was, to a large degree, superfluous, since such questions were already the subject of international labour conventions and of article 10 of the draft Covenant on Economic, Social and Cultural Rights.

60. The majority of the Committee took the view that the word "discrimination", proposed by Argentina, Italy and Mexico (A/C.3/L.1028/Rev.2), would prevent arbitrary action more effectively than the word "distinction", while at the same time it allowed for the adoption of legitimate measures of the kind referred to above. Moreover, the word "discrimination" was being increasingly used in texts adopted by the United Nations and the specialized agencies.

61. The amendment of Lebanon and Morocco (A/C.3/L.1054 and Add.1) proposed a combined text of paragraphs 1 and 2, mentioning the concept of progressive realization.

62. It was stated in support of the amendment that the text of paragraph 2 should be brought into harmony with the wording of various substantive articles of the draft Covenant which embodied that concept. It might be going too far to force upon States the immediate realization of the principle of equality, as the original text of paragraph 2 seemed to require. Governments could not

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guarantee that when the Covenant was ratified the limited resources available to them, which according to law would be open to all, would in fact be utilized equally by the various groups of the population. The amendment of Lebanon and Morocco also took account of the apprehension expressed, in other forms, by the amendments of Burma and Indonesia (A/C.3/L.1027/Rev.4), Jordan (A/C.3/L.1053) and Nigeria (A/C.3/L.1052). The fact that the amendment of Lebanon and Morocco maintained the obligation on States Parties to take steps with a view to achieving "the full realization" of the rights recognized in the Covenant minimized the risk of abuses.

63. The amendment was withdrawn, however, after a number of representatives had stressed that, in their view, to apply the notion of progressive realization to the principle of equality was contrary to the Charter of the United Nations and might give rise to serious abuse, particularly in territories which were not yet independent.

64. If it was understood that the realization of the rights proclaimed in the Covenant must of necessity be progressive, it should be equally clear that there must be no discrimination during the process of progressive implementation of those rights.

Paragraph 3

65. The sponsors of the amendment of Indonesia (A/C.3/L.1027 and Rev.1 and 2), replaced by the joint amendment of Burma and Indonesia (A/C.3/L.1027/Rev.3 and 4), and of the amendments of Jordan (A/C.3/L.1053) and Nigeria (A/C.3/L.1052) stated that their main purpose was to enable the developing countries to decide to what extent they could guarantee economic rights to non-nationals.

66. Proposals to that end were made first as amendments to paragraph 2, and later in the form of an additional paragraph for article 2.

67. A number of representatives felt that the earlier versions, particularly document A/C.3/L.1027/Rev.2, were unacceptable because they placed no limit on the power of the State to decide to whom it intended to guarantee the rights recognized in the draft Covenant; that was regarded by several representatives

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as the very negation of the international endeavour in the field of human rights. Even in their revised forms (A/C.3/L.1027/Rev.3 and 4; A/C.3/L.1053), the proposals seemed to some speakers to be contrary to the spirit of universality and equality underlying the draft Covenant and likely to give rise to all kinds of discrimination alien to the intentions of the sponsors.

68. Several other representatives endeavoured to dispel such misgivings, stressing that the sole aim of the proposals in question was to rectify situations which frequently existed in the developing countries, particularly those which had recently won their independence. In such countries, the influence of non-nationals on the national economy - a heritage of the colonial era - was often such that nationals were prevented from enjoying the economic rights set forth in the draft Covenant.

69. Far from opening the door to discrimination, the amendments were designed to restore the proper balance by enabling nationals to exercise their rights. In the developed countries which had not been subjected to colonial domination, on the other hand, immigration had always been controlled by the Government and non-nationals did not, as a rule, offer serious competition to the economic activities of nationals.

70. The majority of the Committee approved the revised amendment of Burma and Indonesia (A/C.3/L.1027/Rev.4), which was worded to bring out more clearly than the earlier versions the purpose and the limits of the measures the developing countries might take with respect to non-nationals.

Vote on article 2

71. At the 1206th meeting, the Committee voted as follows on the text proposed by the Commission on Human Rights and on the amendments thereto:

Paragraph 1

72. The oral sub-amendment of Saudi Arabia (1204th meeting) to the revised amendment of Bolivia, Chile, Colombia, Mali and Uruguay (A/C.3/L.1046/Rev.2), replacing the word "with" by the word "through", was adopted by 46 votes to 1, with 41 abstentions.

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73. At the request of the Saudi Arabian representative, a separate vote was taken on the words "specially economic and technical" in the revised five-Power amendment. The words were adopted by 41 votes to 33, with 16 abstentions.

74. The revised amendment submitted by Bolivia, Chile, Colombia, Mali and Uruguay (A/C.3/L.1046/Rev.2) was adopted by 47 votes to 9, with 32 abstentions.

75. The revised amendment of the United Kingdom of Great Britain and Northern Ireland (A/C.3/L.1026/Rev.2) was adopted by 54 votes to none, with 35 abstentions.

76. Paragraph 1, as amended, was adopted by 79 votes to none, with 12 abstentions.

Paragraph 2

77. The amendment of Nigeria (A/C.3/L.1052, para. 1) was rejected by 41 votes to 17, with 30 abstentions.

78. The revised amendment of Argentina, Italy and Mexico (A/C.3/L.1028/Rev.2) was adopted by 76 votes to 2, with 13 abstentions.

79. Paragraph 2, as amended, was adopted by 86 votes to none, with 5 abstentions.

Paragraph 3

80. At its 1206th meeting, the Committee decided, on the proposal of the representative of Jordan, to vote first on the revised amendment of Burma and Indonesia (A/C.3/L.1027/Rev.4) and then on the amendment of Jordan (A/C.3/L.1053).

81. At the request of the representative of Indonesia, a roll-call vote was taken on the revised amendment of Burma and Indonesia (A/C.3/L.1027/Rev.4).

The amendment was adopted by 41 votes to 38, with 12 abstentions. The voting was as follows:

In favour: Albania, Algeria, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Cameroon, Central African Republic, Ceylon, Chad, Cuba, Czechoslovakia, Dahomey, Ethiopia, Federation of Malaya, Ghana, Guinea, Hungary, Indonesia, Jordan, Lebanon, Libya, Mali, Mauritania, Mongolia, Morocco, Niger, Nigeria, Poland, Romania, Saudi Arabia, Sierra Leone, Sudan, Syria, Tanganyika, Togo, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, Upper Volta, Yugoslavia.

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Against: Argentina, Australia, Austria, Belgium, Brazil, Canada, Chile, China, Colombia, Costa Rica, Denmark, Dominican Republic, Ecuador, El Salvador, Finland, France, Greece, Guatemala, Honduras, Iceland, Ireland, Israel, Italy, Japan, Madagascar, Nepal, Netherlands, New Zealand, Norway, Panama, Peru, Spain, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Abstaining: Afghanistan, Cyprus, Haiti, India, Iran, Iraq, Ivory Coast, Liberia, Mexico, Pakistan, Philippines, Tunisia.

The representative of Jordan withdrew her amendment (A/C.3/L.1053).

Article 2 as a whole

82. Article 2, as a whole, as amended, was adopted by 51 votes to 4, with 33 abstentions. The text of this article as adopted by the Third Committee will be found in the annex to this report.

ARTICLE 3

83. Article 3 of the draft Covenant on Economic, Social and Cultural Rights, as proposed by the Commission on Human Rights (E/2573, annex I A), read as follows:

"The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant."

No amendments were submitted to this article.

84. Some representatives thought that article 3 duplicated article 2, paragraph 2, and that the adoption of a special article relating exclusively to the equality of men and women might cast doubt on the effect of the other anti-discrimination provisions contained in article 2. It was maintained that the application of absolute equality of the economic rights of men and women might jeopardize national productivity and encourage too many women to work outside their homes. It was usually less profitable for the employer to employ women, while in their capacity as wives and mothers women were needed in the home, especially by the children.

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85. On the other hand, many representatives thought it was essential to retain article 3. The Committee must respect the wish of the General Assembly, expressed in resolution 421 (V), concerning the inclusion of such a provision. While article 2, paragraph 2, prohibited all discrimination based on sex, the same rights should be expressly recognized for men and women on an equal footing and suitable measures should be taken to ensure that women had the opportunity to exercise their rights; for example, it would be unrealistic to allow women to hold public office if they did not have the same opportunities as men to acquire the necessary training. Moreover, even if article 3 overlapped with article 2, paragraph 2, it was still necessary to reaffirm the equal rights of men and women. That fundamental principle, which was enshrined in the Charter of the United Nations, must be constantly emphasized, especially as there were still many prejudices preventing its full application.

86. At the 1206th meeting, article 3, as proposed by the Commission on Human Rights, was adopted unanimously.

87. The text of article 3, as adopted by the Third Committee, will be found in the annex to this report.

ARTICLE 4

88. Article 4 of the draft Covenant, as proposed by the Commission on Human Rights (E/2573, annex I A), read as follows:

"The State Parties to this Covenant recognize that in the enjoyment of those rights provided by the State in conformity with this Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society."

No amendment was submitted.

89. Some representatives thought that the words "only in so far as this may be compatible with the nature of these rights" and "in a democratic society" were somewhat obscure and might give rise to difficulties of interpretation. It was generally thought, however, that the article adequately expressed the essential idea that arbitrary limitation of the rights recognized in the draft Covenant could not be allowed.

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90. At the 1206th meeting of the Committee, a separate vote, requested by the representative of Indonesia, was first taken on the words "only in so far as this may be compatible with the nature of these rights". The words were adopted by 72 votes to 1, with 13 abstentions.

91. Article 4 as a whole, as proposed by the Commission on Human Rights, was adopted unanimously. The text of article 4 as adopted by the Third Committee will be found in the annex to this report.

ARTICLE 5

92. Article 5 as proposed by the Commission on Human Rights (E/2573, annex I A) read as follows:

"1. Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in this Covenant.

"2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent."

No amendment was submitted.

93. There was no detailed debate on this article. Various representatives expressed their satisfaction with the proposed text.

94. At the 1206th meeting of the Committee, article 5, as proposed by the Commission on Human Rights, was adopted unanimously.

The text of article 5, as adopted by the Third Committee, will be found in the annex to this report.

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IV. PART II OF THE DRAFT COVENANT ON CIVIL AND
POLITICAL RIGHTS

95. During the general debate views were exchanged on articles 2 to 5 of the draft Covenant on Civil and Political Rights (E/2573, annex I B).

96. Articles 3 and 5 of the draft Covenant on Civil and Political Rights as proposed by the Commission on Human Rights (E/2573, annex I B) read as follows:

"Article 3

"The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in this Covenant"

"Article 5

"1. Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in this Covenant.

"2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any Contracting State pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent."

97. At its 1206th meeting, the Third Committee unanimously adopted articles 3 and 5 of this draft Covenant, which were essentially the same^{6/} as the corresponding articles of the draft Covenant on Economic, Social and Cultural Rights. The texts of these articles are given in the annex to this report.

98. At its 1207th meeting, the Committee decided for lack of time to defer until the eighteenth session of the Assembly the consideration of articles 2 and 4 of the draft Covenant on Civil and Political Rights.

^{6/} It was pointed out during the discussion that there were some divergences of wording between articles 3 and 5 of the draft Covenant on Economic, Social and Cultural Rights and the corresponding articles of the draft Covenant on Civil and Political Rights.

V. DRAFT RESOLUTION CONCERNING MEASURES OF IMPLEMENTATION

99. The representative of Cyprus submitted the following draft resolution:

"The General Assembly,

"Having regard to the forthcoming discussion by the Third Committee of the articles on implementation of the draft International Covenants on Human Rights,

"Considering that the question of implementation raises a number of issues which are urgently in need of clarification and elucidation,

"Noting that the Secretary-General's Annotations on the texts of the draft International Covenants on Human Rights submitted by the Commission on Human Rights in 1952 (A/2929) do not attempt to clarify and elucidate the issues in question,

"Believing that such clarification and elucidation are necessary to facilitate the orderly discussion of the problem of implementation and to ensure that all points of view are articulated in the course of the debate,

"Mindful of the fact that since 1952 the membership of the United Nations has more than doubled and that not all Member Governments have had an opportunity to participate in the drafting of the articles on implementation,

"Convinced of the desirability that all Member States have before them a systematic account of all proposals and suggestions concerning measures of implementation and a critical analysis of the important issues involved,

"1. Invites the Economic and Social Council to request the Commission on Human Rights at its nineteenth session to define, clarify and elucidate the various issues connected with the problem of implementation of the draft International Covenants on Human Rights for submission, through the Economic and Social Council, to the eighteenth session of the General Assembly;

"2. Requests the Secretary-General to furnish the Commission on Human Rights with all necessary assistance to enable it to carry out its task."

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100. The Committee considered the draft resolution at its 1207th and 1209th meetings. The representative of Cyprus revised his proposal several times in the light of the discussion.

101. In the first revision, the operative part of the proposal read as follows (A/C.3/L.1024/Rev.1):

"The General Assembly,

...

"1. Invites the Commission on Human Rights to take up at its nineteenth session as a matter of priority the definition, clarification and elucidation of the main issues involved in the implementation of the draft International Covenants on Human Rights and to submit through the Economic and Social Council a report thereon to the eighteenth session of the General Assembly not later than 30 July 1963 in order to permit its circulation by the Secretary-General to the Governments concerned prior to the opening of the eighteenth session of the General Assembly;

"2. Requests the Secretary-General to furnish the Commission on Human Rights with all necessary assistance to enable it to carry out its task."

102. The second revision read (A/C.3/L.1024/Rev.2):

"The General Assembly,

...

"1. Invites the Commission on Human Rights to take up at its nineteenth session as a matter of priority the definition, clarification and elucidation of the main issues involved in the implementation of the draft International Covenants on Human Rights and to submit a report thereon to Member Governments for their information immediately on the termination of its nineteenth session as well as to submit the report through the Economic and Social Council to the eighteenth session of the General Assembly;

"2. Requests the Secretary-General to prepare for the Commission on Human Rights a preliminary paper on the subject particularly in the light of the developments that have taken place since the publication of document A/2929 and to furnish all necessary assistance to enable the Commission to carry out its task;

"3. Requests the interested specialized agencies to submit any observations which they may wish to make on the subject to the Commission on Human Rights at its nineteenth session."

103. Following the third revision, the draft resolution read as follows (A/C.3/L.1024/Rev.3):

"The General Assembly,

...

"1. Requests the Secretary-General to prepare a study clarifying and elucidating the main issues involved in the implementation of the draft International Covenants on Human Rights particularly in the light of the developments that have taken place since the publication of document A/2929;

"2. Requests the Secretary-General to forward the study by 1 May 1963 to Member Governments in order that they may, if they wish, send any observations on the study to him by 30 July 1963;

"3. Requests the Secretary-General to submit the study to the General Assembly at its eighteenth session together with such observations of the Governments thereon as he may receive."

104. After its fourth revision, which affected the preamble as well as the operative part, the proposal read as follows (A/C.3/L.1024/Rev.4):

"The General Assembly,

"Having regard to the forthcoming discussion by the Third Committee of the articles on implementation of the draft International Covenants on Human Rights,

"Considering that the question of implementation raises a number of issues which are urgently in need of clarification and elucidation,

"Noting that the Secretary-General's Annotations (A/2929) on the texts of the draft International Covenants on Human Rights submitted by the Commission on Human Rights in 1952 need to be brought up to date,

"Believing that such clarification and elucidation are necessary to facilitate an effective discussion of the problem of implementation and to ensure that all points of view are articulated in the course of the debate,

"Mindful of the fact that since 1952 the membership of the United Nations has more than doubled and that not all Member Governments have had an opportunity to participate in the drafting of the articles on implementation,

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"Convinced of the desirability that all Member States have before them a systematic account of all proposals and suggestions concerning measures of implementation and a critical analysis of the important issues involved,

"1. Requests the Secretary-General, with a view to clarifying and elucidating the main issues involved in the implementation of the draft International Covenants on Human Rights, to prepare a paper bringing up to date document A/2929 in the light of the developments that have taken place since the publication of that document;

"2. Requests the Secretary-General to forward the paper by 1 May 1963 to Member Governments in order that they may, if they wish, send to him any observations thereon by 30 July 1963;

"3. Requests the Secretary-General to submit the study to the General Assembly at its eighteenth session together with such observations of the Governments thereon as he may receive."

105. Chile submitted amendments (A/C.3/L.1058) to the revised draft resolution of Cyprus (A/C.3/L.1024/Rev.4). The first amendment was the deletion in operative paragraph 2 of the words "if they wished"; the second was the insertion between operative paragraphs 2 and 3 of the following:

"3. Urges the Governments of all Member States to do everything in their power to send the Secretary-General the observations referred to in the preceding paragraph;"

106. The representative of Chile accepted the Saudi Arabian representative's suggestions for the replacement of the word "Urges" by "Invites" and the deletion of the phrase "to do everything in their power" in the second amendment. The representative of Chile also accepted the suggestion of the representative of Cyprus for the addition at the end of the second amendment of the words "within the time-limit prescribed therein". As thus modified, the second Chilean amendment was accepted by the representative of Cyprus and incorporated in his draft resolution (A/C.3/L.1024/Rev.4) as operative paragraph 3.

107. The representative of Cyprus also accepted and incorporated in his draft resolution (A/C.3/L.1024/Rev.4) all the following oral amendments and suggestions made by the representatives of Saudi Arabia, China and France.

108. In the first preambular paragraph and in operative paragraph 1 the word "draft" was deleted at the suggestion of the representative of France.

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109. In the second preambular paragraph and in all other paragraphs in which they appeared, the representative of Cyprus, accepting the suggestion of the Saudi Arabian representative, deleted the words "and elucidation".

110. In the fourth preambular paragraph, the representative of China asked for a separate vote on the words "and to ensure that all points of view are articulated in the course of the debate". The representative of Cyprus deleted that phrase.

111. In the sixth preambular paragraph, the representative of Saudi Arabia asked for a separate vote on the words "critical analysis" ("critique" in the French translation). The representative of Cyprus replaced the words "critical analysis" in the English text by the word "review", this change being effected in the French text by the deletion of the word "critique".

112. In operative paragraph 1, the representative of Cyprus accepted an oral amendment submitted by the Saudi Arabian representative for the insertion before the word "paper" of the word "explanatory".

113. In operative paragraph 3 (which became operative paragraph 4 after the incorporation of the second Chilean amendment), the words "the study" were replaced, at the proposal of the representative of Saudi Arabia, by the words "the said explanatory paper".

114. At its 1209th meeting, the Third Committee adopted by 46 votes to 3, with 33 abstentions, the first Chilean amendment (A/C.3/L.1058), for the deletion in operative paragraph 2 of the draft resolution submitted by Cyprus of the words "if they wish".

115. The draft resolution of Cyprus (A/C.3/L.1024/Rev.4), as orally revised and modified by the adoption of the Chilean amendments, was adopted by 83 votes to none, with 1 abstention (see paragraph 117 below, draft resolution B).

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VI. DRAFT RESOLUTION CONCERNING THE FUTURE CONSIDERATION OF THE
DRAFT INTERNATIONAL COVENANTS ON HUMAN RIGHTS

116. At its 1209th meeting, the Committee unanimously adopted the draft resolution (A/C.3/L.1057) of the United Arab Republic (see paragraph 117 below, draft resolution C).

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VII. RECOMMENDATIONS OF THE THIRD COMMITTEE

117. The Third Committee recommends to the General Assembly the adoption of the following draft resolutions:

Draft International Covenants on Human Rights

A

The General Assembly

1. Decides to request the Economic and Social Council to refer to the Commission on Human Rights all the proposals relating to an article on the rights of the child together with the discussion thereon at the seventeenth session of the General Assembly for a thorough study, taking into consideration all the legal implications of including such an article in the draft Covenants;
2. Requests the Secretary-General to send to the Governments of Member States and to the specialized agencies the documents mentioned in paragraph 1 above so that they may submit their comments thereon to the Commission on Human Rights;
3. Requests the Commission on Human Rights to report through the Economic and Social Council to the General Assembly at its eighteenth session on its deliberations.

B

The General Assembly,

Having regard to the forthcoming discussion by the Third Committee of the articles on implementation of the International Covenants on Human Rights,

Considering that the question of implementation raised a number of issues which are urgently in need of clarification,

Noting that the Secretary-General's Annotations^{7/} on the texts of the draft International Covenants on Human Rights submitted by the Commission on Human Rights in 1952 need to be brought up to date,

Believing that such clarification is necessary to facilitate an effective discussion of the problem of implementation,

^{7/} Official Records of the General Assembly, tenth session, Annexes, agenda item 28, document A/2929.

Mindful of the fact that since 1952 the membership of the United Nations has more than doubled and that not all Governments of Member States have had an opportunity to participate in the drafting of the articles on implementation,

Convinced of the desirability that all Member States have before them a systematic account of all proposals and suggestions concerning measures of implementation and a review of the important issues involved,

1. Requests the Secretary-General, with a view to clarifying the main issues involved in the implementation of the International Covenants on Human Rights, to prepare an explanatory paper bringing up to date document A/2929 in the light of the developments that have taken place since the publication of that document;

2. Requests the Secretary-General to forward the paper by 1 May 1963 to Member Governments in order that they may send to him any observations thereon by 30 July 1963;

3. Invites the Governments of all Member States to send to the Secretary-General the observations referred to in the preceding paragraph, within the time-limit prescribed therein;

4. Requests the Secretary-General to submit the said explanatory paper to the General Assembly at its eighteenth session together with such observations of the Governments thereon as he may receive.

C

The General Assembly,

Noting that the Third Committee has adopted articles 2 to 5 of the draft Covenant on Economic, Social and Cultural Rights and articles 3 and 5 of the draft Covenant on Civil and Political Rights,

Considering, however, that the Committee has been unable to complete its consideration of the general provisions, the measures of implementation and the final clauses relating to the two draft Covenants,

Decides to give priority to the consideration of the draft International Covenants on Human Rights at its eighteenth session.

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ANNEX

I. Text of articles 2 to 5 of the draft Covenant on Economic, Social and Cultural Rights adopted by the Third Committee at the seventeenth session of the General Assembly

Article 2

1. Each State Party hereto undertakes to take steps, individually and through international assistance and co-operation especially economic and technical, to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognized in this Covenant by all appropriate means, including particularly the adoption of legislative measures.
2. The States Parties hereto undertake to guarantee that the rights enunciated in this Covenant will be exercised without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.
3. Developing countries, with due regard for human rights and their national economy, may determine to what extent they would guarantee the economic rights recognized in this Covenant to non-nationals.

Article 3

The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in this Covenant.

Article 4

The States Parties to this Covenant recognize that in the enjoyment of those rights provided by the State in conformity with this Covenant, the State may subject such rights only to such limitations as are determined by law only in so far as this may be compatible with the nature of these rights and solely for the purpose of promoting the general welfare in a democratic society.

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Article 5

1. Nothing in this Covenant may be interpreted as implying for any State, group or person, any right to engage in any activity or to perform any act aimed at the destruction of any of the rights or freedoms recognized herein, or at their limitation to a greater extent than is provided for in this Covenant.
2. No restriction upon or derogation from any of the fundamental human rights recognized or existing in any country in virtue of law, conventions, regulations or custom shall be admitted on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.

II. Text of articles 3 and 5 of the draft Covenant on Civil and Political Rights adopted by the Third Committee at the seventeenth session of the General Assembly

Article 3

The States Parties to the Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in this Covenant.

Article 5

1. Nothing in this Covenant may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms recognized herein or at their limitation to a greater extent than is provided for in this Covenant.
2. There shall be no restriction upon or derogation from any of the fundamental human rights recognized or existing in any Contracting State pursuant to law, conventions, regulations or custom on the pretext that the present Covenant does not recognize such rights or that it recognizes them to a lesser extent.
