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Chairman: Mr. Hermod LANNUNG (Denmark).

AGENDA ITEM 60

Interim measures, pending entry into force of the Covenants on Human Rights, to be taken with respect to violations of the human rights set forth in the Charter of the United Nations and the Universal Declaration of Human Rights (A/3187 and Add.1, A/C.3/L.592)

1. Mr. EUSTATHIADES (Greece) recalled that the Greek delegation, in its explanatory memorandum (A/3187/Add.1), had already set out the reasons for its proposal that the General Assembly should consider the question of interim measures, pending entry into force of the Covenants on Human Rights, to improve respect for human rights. It wished, however, to furnish some additional information and to make some observations on the draft resolution it had submitted to the Committee (A/C.3/L.592).

2. The weighty legal arguments, the compelling reasons of humanity and the considerations of good policy that could be adduced in support of the Greek proposal were all so closely interrelated as to be virtually indistinguishable.

3. The factual background to the problem was simple and beyond dispute. It should be realized first of all that peace was closely bound up with respect for human rights and fundamental freedoms. The affirmation of that interdependence marked one of the most notable ways in which the United Nations Charter had improved on the Covenant of the League of Nations, which had made no mention of human rights. While the purpose of the United Nations was to maintain peace, it was more specifically to maintain a peace under which human freedoms were assured and respect for the human person guaranteed. To that end the Charter proclaimed the rights of the individual in various provisions and made it the primary duty of the principal organs of the United Nations to respect and safeguard those rights. It also laid legal obligations on Member States with regard to universal respect for, and observance of, human rights. After all the sacrifices which had been made during the Second World War, it was unthinkable that the articles of the Charter relating to human rights and the provisions of the Universal Declaration of Human Rights should remain a dead

letter, thus flouting the ideal of justice on which the United Nations was based. Mankind had reached a stage at which there were rules of convention or custom to protect the freedom and dignity of man, and the State was held internationally accountable for its treatment of the persons under its jurisdiction. In an era when respect for human rights should be a universally accepted duty no effort should be spared to ensure that the General Assembly should take an objective and constructive decision on the problem of measures to be taken pending the entry into force of the Covenants.

4. While the obligations of States in the field of human rights were clear and definite, it was none the less true—and that was the second aspect of the problem—that it was not only the rights of individuals taken alone, but also those of entire ethnic or religious groups that were being violated. However, the machinery for ensuring observance of those rights, that is to say, the system of measures to combat violations, was still incomplete and ineffective. The international co-operation indispensable for the functioning of that machinery had not yet been satisfactorily organized. Apart from the procedure followed by the Trusteeship Council, whose competence was geographically limited, and by the Security Council in certain well-defined cases relating to violations raising a threat to peace and security, there was at present not the slightest trace of any specific procedure for ensuring respect for human rights. In Articles 10, 13 and 14, the Charter enjoined the Assembly, in very general terms, to promote respect for and the realization of human rights and fundamental freedoms and to take appropriate steps to that end, while neither prescribing nor excluding any particular method of implementation. The measures concerned might either be specific, and apply to particular situations, or be general, and make provision for all possible forms of violations. With regard to the first category of measures, those relating to specific violations, the method so far followed by the General Assembly had not proved satisfactory, the procedures having been lengthy and ineffective. It was sufficient to recall, for example, that the complaint lodged by India against the Union of South Africa concerning the treatment of Indians in South Africa was still on the agenda. The reason was that every time the Assembly had considered a complaint concerning a violation of human rights the question had been made a political issue despite its essentially humanitarian character. There could be no doubt that when political considerations prevailed and the examination of complaints gave rise to acute political differences, a solution became more difficult to find and relations between Member States were embittered instead of improved. The practice thus far followed of having violations of human rights examined by political committees was consequently a mistake. There seemed, however, to be no other course for the time being. Greece, for example, had lodged a complaint with the Commission of Human Rights, at its twelfth session,

concerning the violation of human rights in Cyprus.¹ In his letter to the Chairman of the Commission, Mr. Palamas, the Permanent Representative of Greece to the United Nations had stressed that it would be inconceivable for the Commission to ignore the situation created in Cyprus as a result of the abolition of the most elementary human rights in a region inhabited by nearly half a million Greeks. The President of the Commission on Human Rights had said he would refer the case to the Economic and Social Council, but that had been found not to be procedurally possible and the Council had not, in fact, dealt with the matter.² Thus, the only channels left open had been those of the political commissions.

5. Prudence, however, would seem to dictate that a matter so unquestionably humanitarian as respect for human rights should be divorced from politics. That would be one way of providing better protection for the individual without endangering the harmony of international relations. There was accordingly a need for a system which would combine efficiency with calmness and which could be set in motion when human rights were violated. That need was provided for in the draft International Covenants on Human Rights, which included provisions on measures of implementation.

6. It must not, however, be forgotten that much time would elapse before the Covenants could be brought into force. At the current rate of progress it appeared unlikely that they could be adopted for some years. Several years more would then be required before the system provided for could be set in motion. The Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe was instructive in that respect, for five years had elapsed between its signature and its implementation. That had been a regional convention designed to govern the relations between States which declared themselves to be more closely linked than the Members of the United Nations. The interval would be even longer if, as Professor Cassin recommended, the entry into force of the Covenants was made conditional on the ratification or accession of more than half the States, and not by twenty States, as was now provided in the draft Covenants.

7. During the long intervening period there were likely to be violations, and the United Nations should be fully alive to its responsibility in that regard. The problem was a serious one for all human beings, and especially for peoples under the yoke of authoritarian colonialism. It was a fundamental humanitarian problem, closely linked to the maintenance of peace. Failure to take appropriate measures to prevent possible violations or to end those which affected entire communities was unthinkable. The problem did not exist merely in the realm of theory. Offences under the general law were being committed, collective penalties were being imposed, crimes against humanity and acts of genocide were being perpetrated; in more general terms, acts prohibited under international law were being committed in various parts of the world.

8. The Greek delegation, in proposing its draft resolution (A/C.3/L.592), realized that any progress, however modest, made by the United Nations in the direction of international co-operation in the field of human

rights was beneficial. In addition, from the practical standpoint, it had the sad experience of the attacks on freedom and law which were being perpetrated in Cyprus and of the effect of that situation on international relations. Other delegations might have in mind other instances of the disregard of colonialist imperialism for human rights and for freedom.

9. Greece was anxious for the closer international co-operation that would result from the adoption of measures designed to secure the observance of human rights. Respect for the human person was one of the corner-stones of the United Nations Charter, and failure to set up even a rudimentary kind of provisional arrangement for preventing and discouraging violations pending the entry into force of the Covenants would be a serious matter.

10. Progress, however, must be made in stages. The Greek draft resolution (A/C.3/L.592), which bore the stamp of realism, had taken that fact into account and represented nothing more than a first step. There seemed, moreover, to be no justification for discarding the interim system envisaged by Greece merely in order to obviate discussion. That would mean giving approval to further crimes and further lawlessness. The Greek proposal was designed to provide a suitable peaceful procedure for solving the problems resulting from violations of human rights and in so doing to prevent the commission of acts contrary to international law, the United Nations Charter and the Universal Declaration of Human Rights. If the Greek proposal was not adopted, the only course open to anyone who wished to lodge a complaint would be an appeal to the political committees, with all the dangers that such a course entailed. Those were the reasons why the Greek delegation had proposed its draft resolution.

11. It had quite naturally felt that human rights problems should be referred to a committee set up under the Commission of Human Rights, an organ which it considered highly appropriate both by name and by history. He recalled that when the Commission on Human Rights had been nothing more than a committee it had considered assuming competence to deal with specific cases. Only later had a different interpretation been put on the terms of reference of the Commission on Human Rights—an interpretation which, incidentally, had been vigorously opposed in several works by Mr. Lauterpacht, the eminent British internationalist and judge of the International Court. Anxiety for the future of that Commission was not, moreover, out of place. Although it was the only commission expressly provided for in the United Nations Charter, it was liable, after having prepared the Universal Declaration of Human Rights and the draft Covenants, to lapse into a torpor that would endanger its very existence and be a source of discouragement to mankind. The Greek draft resolution provided for screening and supervision by the Commission—an eminently qualified organ—so that frivolous complaints would be discouraged and States provided with a safeguard. From another point of view, supervision by an organ which already existed and which was eminently qualified to exercise such supervision would also be in the interest of the accused State, as frivolous charges would be dismissed as mere allegations, and the State concerned would be absolved by the findings of the proposed committee or even earlier by a declaration of non-admissibility on the part of the Commission, as provided for in the draft resolution.

¹ See E/CN.4/SR.540.

² See *Official Records of the Economic and Social Council, Twenty-second Session, 946th meeting, and E/AC.7/SR.350.*

12. The date when the Covenants would come into force was generally admitted to be still far off. He asked whether the United Nations, the guarantor of human rights and fundamental freedoms, was to remain in the meantime a passive spectator of violations to which men, women and children were falling victim. Such an attitude would be inconceivable and would conflict with the history, spirit and letter of the Charter. The policy of the ostrich was the worst of all tactics, for some situations, if allowed to deteriorate, might in time constitute real threats to the peace.

13. The Greek delegation would like to know the views of other delegations on that grave humanitarian problem and would welcome constructive proposals based on a desire to make justice prevail and to maintain a peace which would be worthy of living in because it would be based on respect for an eternal value, the value of the human person.

14. Mr. BRENA (Uruguay) stated that the Greek proposal was of considerable importance both because the Charter and the Universal Declaration of Human Rights were not sufficient to guarantee respect for human rights and because the date on which the Covenants would enter into force was still far off. It was essential that there should be a body responsible for ensuring that the principles set forth in those three instruments were respected. He therefore supported the Greek proposal, but only in part, because Uruguay had long previously submitted, and would be prepared to reintroduce, a draft on the same question providing for the establishment of an Office of the United Nations High Commissioner for Human Rights (see E/2573, annex III).

15. Whichever proposal was adopted, the Committee was caught somewhat short and lacked certain elements necessary for the discussion. He wondered whether it would be possible for the Secretariat to give the Committee a rough idea of the number of communications relating to violations of human rights which the United Nations had received but on which it had been unable to act because there was no procedure for that purpose.

16. Mr. DIAZ CASANUEVA (Chile) thanked the Greek representative for his touching statement. He would limit his intervention to certain of the technical problems raised by the Greek proposal. First, the question arose to what extent the Commission on Human Rights was competent to deal with complaints concerning human rights from States or individuals. That was a question which the Commission on Human Rights itself had often asked. It would be remembered that it had rejected proposals submitted by India and Chile on the right of petition.³ That action reflected its misgivings with regard to its own competence. It would be helpful if the Secretariat would give the Committee some specific information with regard to the competence and terms of reference of the Commission on Human Rights. So far the Commission had merely taken note of the lists of communications, without ever examining complaints, and the delegations which had tried to find a procedure for examining them had failed, since the Commission considered that it could not set itself up as a political tribunal. Although the Greek representative had said that a procedure divorced from politics must be established, the Greek draft resolution

(A/C.3/L.592) referred only to complaints made by a Member State against another Member State, and such complaints would necessarily be of a political nature.

17. The difficulties were many, and he recalled in that connexion that the International Labour Organisation, which, in order to solve a similar problem had set up a Committee on Freedom of Association to deal with complaints from trade-union organizations and States, was also encountering very great difficulties in spite of its greater experience. Yet it must be hoped that the Committee would succeed where others had so far always failed, and he was prepared to support any constructive proposal.

18. He considered it useful in that connexion to recall that the Commission on Human Rights, precisely because of the delay in implementing the Covenants, had, at its eleventh session, examined three proposals by the United States delegation concerning, respectively, technical assistance in connexion with human rights, annual reports on human rights and studies on specific aspects of human rights.⁴ By taking those proposals into account when examining the Greek draft resolution, a procedure might be found whereby respect for human rights might be effectively ensured during the intervening period to which the Greek representative had referred.

19. Mr. MOROZOV (Union of Soviet Socialist Republics), noting that most members of the Committee were still not in a position to discuss the Greek draft resolution (A/C.3/L.592), proposed, in order to expedite the work, that the following meeting should be devoted to the examination of article 13 of the draft Covenant on Economic, Social and Cultural Rights, the discussion of which was already far advanced. The Committee would then take up agenda item 60 again.

20. Mr. PAZHWAK (Afghanistan) agreed with the Chilean representative that precise information on the extent to which the Commission on Human Rights was competent to examine complaints concerning violations of human rights would be helpful. Under the Greek draft resolution (A/C.3/L.592), the Commission on Human Rights could examine complaints by one Member State against another Member State. He asked what the Greek representative's intentions were in that connexion, and how the measures provided for in the draft resolution would apply to colonies, Non-Self-Governing Territories and territories occupied by a State against the will of its people.

21. He supported the proposal of the Soviet Union representative, which would enable the Committee to proceed with its work.

22. Mr. HUMPHREY (Secretariat) said that at its 1952 session the Commission on Human Rights had received a list summarizing 25,279 communications concerning human rights. The corresponding figures had been 2,118 at the session in 1953, 9,524 in 1954, 5,982 in 1955 and 3,243 in 1956.

23. The terms of reference of the Commission on Human Rights had been laid down by resolution 1/5 of the Economic and Social Council, which had later been amended. The Secretariat would reproduce the amended text of the resolution and have it circulated. The procedure for examining communications concerning human rights was set forth in Economic and

³ *Ibid.*, Sixteenth Session, Supplement No. 8, annex III B, paras. 131-135.

⁴ *Ibid.*, Twentieth Session, Supplement No. 6, chap. VII

Social Council resolution 75 (V), the amended text of which would also be distributed to the members of the Committee.

24. Mr. MUFTI (Syria) also felt that the Committee did not yet have at its disposal all the information required for an examination of the Greek draft resolution (A/C.3/L.592). While awaiting that information, it would be useful, as the Soviet representative proposed, to complete consideration of article 13 of the draft Covenant on Economic, Social and Cultural Rights. Such a decision would in no way prejudice the Greek proposal, since delegations would as a result have time to study it, and there would be the additional advantage of saving the Committee's time.

25. Mr. EUSTATHIADES (Greece) said that in compliance with a request made by the representative of Uruguay, his delegation would reproduce the full text of the Greek statement, which would be circulated by the Secretariat as soon as possible. Meanwhile, it might be wise to follow the Soviet proposal, in order to give all delegations the opportunity to study the Greek draft resolution carefully.

26. Mr. CHENG (China) pointed out that, so far as he knew, the problem of complaints concerning violations of human rights made by States or individuals had been considered by the Commission on Human Rights only in connexion with the drafting of those provisions of the Covenants relating to measures of implementation. He suggested to the Greek representative that the item should be included in the agenda of the next session of the Commission on Human Rights. The Commission could, in general terms, formulate recommendations for a solution of the problem, which had been dealt with so far only by the General Assembly or the Economic and Social Council in important cases. The Greek proposal (A/C.3/L.592) presented difficulties for the Chinese delegation particularly because it was so detailed. The provision of separate

procedures for the various categories of complaints would, moreover, be desirable.

27. Mr. EUSTATHIADES (Greece) said he would confine himself to answering a question of principle that had been raised by several delegations, namely, that of the competence of the Commission on Human Rights. In that connexion, if the practice so far followed on the basis of the restrictive interpretation of the Charter and of Economic and Social Council resolution 75 (V) was adhered to, the Commission on Human Rights was not empowered to go into the substance of complaints concerning violations of human rights. It was not a question of discussing the theory of the matter but of requesting the Commission on Human Rights—which had so far been denied any competence to deal with specific violations of human rights, seeing that neither the Economic and Social Council nor the General Assembly had drawn its attention to the possibility of exercising such competence—to take a position. The Greek delegation considered that it would be useful for the Commission on Human Rights to take up that matter and to reach conclusions on the question whether and to what extent it could be empowered to exercise supervision in specific cases and under specific conditions. The Commission was the organ best qualified to deal with such matters, and the organ best suited by virtue of its history and its name to express its views on the future exercise of its competence in that field.

28. The CHAIRMAN proposed that the Committee should resume consideration of article 13 of the draft Covenant on Economic, Social and Cultural Rights at the following meeting and should set 5 p.m. on 29 January as the time-limit for the submission of amendments to that article.

It was so decided.

The meeting rose at 12.35 p.m.