



Wednesday, 26 October 1955,
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New York

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Chairman: Mr. Omar LOUTFI (Egypt).

AGENDA ITEM 28

Draft International Covenants on Human Rights (E/2573, annexes I, II and III, A/2907 and Add. 1 and 2, A/2910 and Add.1 to 5, A/2929, A/2943, chapter VI, section I, A/C.3/L.460 and Corr.1, A/C.3/L.466, A/C.3/L.472) (*continued*)

GENERAL DISCUSSION (*continued*)

Article 1 (continued)

1. Mr. LANNUNG (Denmark) said that Denmark attached the highest importance to the right of peoples to self-determination, which had for generations been one of the bases of its policy. It considered that a people or a national group should be permitted to further its national aspirations by democratic means. With regard to paragraph 2 of article 1 of the draft International Covenants on Human Rights (E/2573, annex I), he said that the right of self-determination should apply to Non-Self-Governing Territories as well as to other territories when a sufficient level of economic, social, cultural and, at the same time, political, maturity had been reached.

2. Despite its support of the principle of self-determination, the Danish Government did not favour the inclusion in the covenants of a provision such as the one set forth in article 1. There were several reasons for its attitude. In the first place, the provision seemed to be of doubtful value, because it was couched in vague and over-general terms. It also had the serious defect of omitting any reference to the right of peoples and nations freely to choose their own form of government. That was an essential feature of self-determination, for citizens living under a feudal or authoritarian régime could not be said to enjoy the right of self-determination. The definition given in article 1 was therefore incomplete. Paragraph 3 of the article, on the other hand, consisted of two sentences which, if interpreted in the generally accepted sense, were merely redundant but which might be harmful in that they might introduce obstacles to international co-operation, which was a prerequisite for the economic improvement of industrially under-developed areas.

3. In the second place, his delegation was opposed to the inclusion of article 1 in the draft covenants

because it considered it illogical to include in instruments dealing with individual human rights a collective right such as the right of peoples to self-determination. The implementation system laid down in the draft covenants could not be applied to self-determination, as had rightly been pointed out by the International League for the Rights of Man in a recent statement.

4. Lastly, the Committee would be acting unrealistically if it adopted an article on self-determination. It was in fact certain that the inclusion of such a provision would prevent a large number of important States from ratifying the covenants. The Committee might usefully ponder the example of the Convention for the Protection of Human Rights and Fundamental Freedoms adopted by the Council of Europe. Although the European States which had signed that instrument had a common heritage of political traditions, ideals, freedom and the rule of law, they had not all deposited their instruments of ratification. It was illogical to expect ratification of the covenants by countries which would not vote in favour of them, let alone sign them. It was unrealistic to imagine that in spite of that situation ratifications would subsequently come more or less spontaneously.

5. For all those reasons, the best course would probably be to eliminate article 1 from the draft covenants. If the remaining provisions of the draft covenants were adopted and if they really were observed, the solution of the problem of self-determination might only be a question of a comparatively short time. If, however, the Third Committee was in favour of retaining the article, there was no objection to its postponing a final decision, say, until the next session of the General Assembly; in the intervening period, Governments would have time to reflect on the issues raised in the current debate.

6. The Danish delegation was in favour of the Secretary-General's suggestion (633rd meeting) that a new body should be set up to draft a declaration on the right of peoples and nations to self-determination. That procedure should help the Committee speedily to complete its basic task, which was the examination of the draft covenants and their adoption in a form likely to be ratified. A study of self-determination in its internal and external aspects could not fail to facilitate the Committee's subsequent work. It would serve to establish what was meant by the principle of self-determination and to determine the methods by which it could be implemented; the study should, in particular, deal with the rights and duties of States and the relationship between the principle of self-determination and other principles enunciated in the Charter of the United Nations and also with the economic, social and cultural conditions that facilitated its application; some limitations, too, would of course have to be defined.

7. He regretted the fact that there were no provision, at least in the draft Covenant on Civil and Political Rights, authorizing individuals to submit petitions in the event of violations of human rights by a Government. The inclusion of such a provision was of vital importance if the covenants were to be effective.

8. Emphasizing the historical importance of the task on which the Third Committee was engaged, he pointed out that if the covenants were adopted the States of the world would for the first time be subject to a common authority in the matter of the application of fundamental human rights. The documents before the Committee were of such importance that they called for the maximum goodwill from delegations. He appealed to all members of the Committee to do their utmost to facilitate the adoption of the draft covenant on individual human rights by displaying a spirit of understanding and compromise.

9. Mr. PAZHAWAK (Afghanistan) thought that the Committee should not, at the current stage, embark on a general debate which would reopen matters on which the General Assembly, by requesting the inclusion in the covenants of an article on the right of peoples to self-determination, had already taken a decision (resolution 545 (VI)). The discussion of article 1 should be limited to the documents before the Committee and, in particular, to the amendments submitted by Australia (A/2910/Add. 2), the Netherlands (A/2910/Add.3) and the United Kingdom (A/2910/Add. 1). He would accordingly reply to a number of points raised by the United Kingdom representative in his interesting statement at the 642nd meeting, in order to avoid any misunderstanding on the part either of the public or of the members of the Third Committee.

10. According to Mr. Hoare, there was a tendency in the United Nations to create "blocs", one colonial, the other anti-colonial. The term used by the United Kingdom representative might, he felt, give rise to some confusion. He thought it well, therefore, to make it clear from the start that the problem before the Third Committee was not a colonial issue. It was unfortunate that it was sometimes regarded as such, since it was in point of fact very much broader. It should be borne in mind that the right of peoples to self-determination was only one of the rights covered by the draft covenants; it would have to be proclaimed even in a world from which colonial territories had vanished. It was because all peoples had not yet attained independence that discussion of article 1 was often thought to raise the question of colonialism. That article should therefore be restored to its place in the draft covenants. His country, like the United Kingdom, was opposed to the creation of blocs, whether inside or outside the United Nations. The fact, however, that a number of States adopted the same attitude towards a particular question did not necessarily mean that they formed a bloc. As stated very clearly at the Asian-African Conference at Bandung, Afghanistan refused to belong to any group of Powers or to have any part in the creation of such a group. The colonial Powers would be mistaken if they regarded as a hostile bloc all the States which were in favour of the inclusion of article 1 in the covenants; those States were merely striving to ensure that peoples and nations throughout the world should enjoy independence and freedom.

11. The representative of the United Kingdom had said that the question of self-determination went to the very roots of the political life of a State. That argument, which in the opinion of the United Kingdom representative militated against the inclusion of article 1 in the draft covenants, actually demonstrated the need for including the article. Moreover, when the United Kingdom representative himself admitted that the right of self-determination had acquired a compelling moral force which had won it ever-increasing acceptance, he was surely, contrary to what he might have maintained, providing an excellent reason for including the right in the covenants on an equal footing with all the other rights, since the moral force it possessed could not but increase the moral force of the instruments by means of which the United Nations was endeavouring to secure the peace and welfare of all and to achieve the ideal of the free man.

12. The United Kingdom representative had also maintained that, since the General Assembly had not included the right of self-determination in the Universal Declaration of Human Rights, which had been designed to cover all aspects of human rights, that right should not be given a place in the covenants. He would like to ask a few questions on that point. He wondered whether the United Kingdom representative, whose knowledge of the Universal Declaration was unrivalled, really thought that it covered every aspect of human rights: only if it did, could any significance be attached to the fact that the right in question was not included in the Declaration. He wondered, too, whether the United Kingdom representative was of the opinion that the covenants should include only the rights proclaimed in the Declaration and take no account of those that were not, and whether he truly and sincerely thought people would believe that he was unaware of the difference there was, in both nature and purpose, between the draft covenants and the Universal Declaration.

13. The United Kingdom representative had endeavoured to show that the idea of self-determination had not become a concern of the United Nations until 1948 and that the General Assembly had not actually begun to deal with it until 1950. The Afghan delegation considered that the United Nations had been concerned, from its very inception, with the right of self-determination, for the right was proclaimed in the Charter, which had ignored neither its importance nor its implications. Even if the General Assembly had not begun to concern itself with the right of self-determination until after 1948, it was perfectly entitled to deal with the matter and had decided the question of its own competence in 1950, when, despite the opposition that had been displayed, it had adopted the resolution which led to the inclusion in the draft covenants of an article on the right of self-determination (resolution 421 (V), section D). To the representative of the United Kingdom, the resolution of 1950 had been strange in that it had picked up a stitch which had been dropped. He himself, however, was of the opinion that the really strange thing would be, not to pick up a dropped stitch, but to drop all those that had so often been picked up despite all efforts to undo them. That would be not only strange but even dangerous, for the prestige of the United Nations would be greatly shaken if, abandoning its previous efforts, the General Assembly were to spread

despair in the hearts of so many peoples who had believed in the United Nations.

14. The United Kingdom representative had said that in their decisions relating to the right of self-determination the delegations had allowed themselves to be carried away by their enthusiasm and their desire to affirm an important principle, and he had advocated a dispassionate discussion of the texts before the Committee. While it was true that the decisions in question bore the mark of an enthusiastic desire to see them applied, the discussions, so often resumed, had not been lacking in deliberation and thought and the delegations which had voted in favour of those decisions had certainly not been actuated by sentiment, still less by personal desires. If those decisions expressed any desire at all, it could be only the desire of the majority.

15. Lastly, the United Kingdom representative had said that to include article 1 in the draft covenants would be tantamount to putting "political dynamite" into them. Perhaps it was possible to talk of that kind of dynamite, but if dynamite there was, the first charge had been laid when the first violation of the right in question had been committed. History abounded in examples of violations of that kind and it was because they were only too familiar with the consequences of such violations that the delegations in favour of article 1 were trying to spare the future the calamities of the past.

16. He was astonished that the United Kingdom representative, who had made so admirable a criticism of the wording of the article, had found nothing to propose other than its outright deletion. The Afghan delegation frankly acknowledged that some of the criticisms that had been made were justified and, in response to the Danish representative's appeal, it was prepared, wherever compromise was possible, to amend the text and even to replace it by another, with a view to finding the best possible wording. It would accordingly welcome any accepted form of words which would safeguard the principle of including article 1; failing that, it would suggest that the Committee should proceed to vote on the amendment.

17. His delegation reserved the right to speak again on the wording of article 1, after the other delegations had expressed their views on the subject.

18. Mrs. US (Byelorussian Soviet Socialist Republic) supported the reasons advanced by the delegations of Saudi Arabia, Egypt, Poland, Afghanistan and other countries in favour of retaining article 1 in the draft covenants. The Byelorussian delegation was of the opinion that the article was one of those which carried most weight, in that it dealt with the most important right of all, the right to freedom and independence. Furthermore, its inclusion was in accordance with the express decision adopted by the General Assembly at its sixth session (resolution 545 (VI)) and gave effect to certain provisions of the United Nations Charter, particularly those of Article 1, paragraph 2, and Article 55.

19. The Byelorussian delegation could not accept the interpretation advanced by the opponents of article 1 of the draft covenants that in the Charter of the United Nations self-determination was regarded as a principle and not as a right. It saw in that an artificial distinction. The Charter was a multilateral covenant the provisions of which were binding on the States

which had signed it and which in so doing had solemnly undertaken to respect the principle of self-determination. That undertaking meant that peoples had the right to ask that the principle in question should be applied to them; it amounted therefore to a right.

20. Thus the affirmation that the United Nations, having recognized the principle, did not recognize the right of self-determination, had no meaning and contradicted the spirit and the letter of the Charter. In the opinion of the Byelorussian delegation, the right of self-determination was a prerequisite of the enjoyment of all the other human rights, for if peoples and the individuals of whom they were composed were not free, they could scarcely make the progress necessary for their economic, cultural and social development. It was consequently a vital question for millions of human beings. It was the duty of the United Nations to take practical steps to ensure that all peoples were enabled to decide their own status; it could not remain indifferent to the great drive of peoples towards independence.

21. Nor could the Byelorussian delegation accept the contention of those who rejected article 1 of the draft covenants because they saw in the right of peoples to self-determination a collective right, as opposed to an individual right. The fact was that, like other rights, the right of self-determination was both individual and collective. The rights of the individual could not be separated from those of the nation to which he belonged, for the individual could be free only if the nation enjoyed freedom. History showed that peoples which had won their independence made rapid progress in all spheres and were thus able to promote respect for the rights of the individual.

22. In that connexion, she recalled the statement the representative of the Ukrainian SSR had made on the magnificent progress which the peoples of the Soviet Union had made since their liberation.

23. The Byelorussian delegation thus had every reason for sympathizing with the aspirations of peoples struggling for their independence. The Byelorussian delegation would vote in favour of the retention of article 1 in the draft covenants. The inclusion of that article would contribute to the implementation of the right of peoples and nations to self-determination and would thus strengthen peace among nations.

24. Mr. SUDJAHRI (Indonesia) said that he would confine his comments to the amendments submitted by Australia (A/2910/Add.2), the Netherlands (A/2910/Add.3) and the United Kingdom (A/2910/Add.1). That, however, necessitated a survey of some general questions which had to be borne in mind in deciding whether or not the right of peoples to self-determination should be included in the covenants.

25. Despite serious difficulties, the Commission on Human Rights had made every effort to draw up the two draft covenants in such a way as to ensure their ratification by the greatest possible number of States. If the rights specified in the covenants were to be respected and enforced, it was imperative that the right of peoples to self-determination should be recognized, for that was a prerequisite of the enjoyment of all other rights. In that connexion, he recalled the provisions of General Assembly resolution 545 (VI).

26. The argument that self-determination was a political principle, the application of which had to be

subordinated to other principles, and primarily to the maintenance of peace, introduced an artificial distinction into the whole concept of fundamental rights. That argument did not justify the deletion of article 1; every right set forth in the draft covenants had some political aspect. Furthermore, the right of peoples to self-determination had been included in the Charter of the United Nations as a means of furthering the ideal of peace. A restatement of that right in the covenants would help to create the necessary conditions for the establishment of peaceful relations among nations; such a restatement was therefore an essential condition for the maintenance of peace. By deleting article 1, the United Nations would be declining to give practical significance to its theoretical recognition of that right, which would accordingly remain valueless; without any strict rule, the States parties to the covenants would continue to place on those provisions the construction most favourable to themselves. Asia, Africa and the Middle East, where peoples were still struggling for the recognition of the fundamental rights denied to them for generations by colonialism, imperialism and tyranny, would be the scene of disturbances and unrest. The deletion of article 1 would only give fresh impetus to keen nationalist sentiments; the responsibility would devolve on the Powers which obstinately refused to recognize the equal rights of all peoples; history would show, once again, that peace could not be maintained while some peoples were denied their fundamental rights.

27. The question of self-determination no longer arose with regard to West Irian, where the people had already decided their future by joining the Indonesian people in August 1945, in order to proclaim their independence.

28. As to the argument that the right of peoples to self-determination was a collective right and not an individual one, the basis of that right was the principle that all nations were equal. It applied to the individuals constituting a nation as much as to the nation itself; frequently, when a nation was not the master of its destiny, the individuals were denied their fundamental rights.

29. A distinction between the rights of the individual and those of the nation was at variance with the United Nations Charter, which was equally emphatic in affirming the equal rights of men and of nations. It was clear from Article 55 of the Charter that the fundamental freedoms of the individual were inseparable from the right of peoples to self-determination. Just as an individual acquired his personality from the nation to which he belonged, so a nation derived its character from the individuals of whom it was composed.

30. The Indonesian delegation would vote against the amendments submitted by Australia (A/2910/Add.2),

the Netherlands (A/2910/Add.3) and the United Kingdom (A/2910/Add.1).

31. Mr. HIMIOB (Venezuela) said that he had carefully followed the course of the debate. His delegation, which had no rigid notions regarding the matters under discussion, was always prepared to adapt its views in the light of the pertinent arguments advanced. His appraisal of the situation had convinced him that the Committee was divided into two camps, each adhering to an extreme position: one camp supported the outright elimination of article 1 and the other its integral retention. If, however, the covenants were to be acceptable to the greatest possible number of States, a bare, or even substantial, majority on the issue before the Committee would be inadequate; a compromise solution had to be found. Both those in favour of and those opposed to the deletion of article 1 should examine the possibility of changing the text in an endeavour to make it acceptable to both sides. The Danish and Afghan representatives did not seem averse to that solution. In signing the Charter, all the members of the United Nations had recognized the principle of self-determination; the problem, therefore, was to find a satisfactory form in which it could be included in the covenants.

32. He reserved the right to speak again, in order to state his delegation's views, if the desired compromise solution proved impossible.

33. Mr. DAVID (Liberia) said that, in his delegation's opinion, the adoption of the provisions of article 1 would contribute towards the political and economic stability which the entire world ardently desired. In Africa, as in other continents, numerous peoples wished to exercise the right of self-determination in order to be rid of colonialism and to attain independence. The technical assistance furnished by the United Nations to under-developed countries had, to some extent, awakened the inhabitants to a realization of their rights as human beings.

34. The right of peoples to self-determination was a fundamental right; his delegation, believing that the covenants should confirm that fact, would support the retention of article 1.

35. Mr. HOARE (United Kingdom) said that he had listened with interest to the Afghan representative's comments; he would reply to some of them at a later stage. For the time being, he would point out that, in speaking of the seemingly inevitable tendency to create blocs, he had simply meant to emphasize how regrettable it would be, in considering article 1, if the issues were to be regarded as merely colonial issues, such as had led to certain alignments of opinion in the past. He was indeed in complete agreement with the Afghan representative that the question far transcended any such issue in its scope.

The meeting rose at 5 p.m.