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Chairman: Mr. Humberto DIAZ CASANUEVA  
(Chile).

AGENDA ITEM 48

Draft International Covenants on Human Rights (A/  
2907 and Add.1-2, A/2910 and Add.1-6, A/2929, A/  
5411 and Add.1-2, A/5462, A/5503, chap. X, sect. VI;  
E/2573, annexes I-III; E/3743, paras. 157-179; A/  
C.3/L.1062, A/C.3/L.1177) (continued)

PROPOSAL TO INCLUDE AN ARTICLE ON THE  
RIGHT TO FREEDOM FROM HUNGER IN THE  
DRAFT COVENANT ON ECONOMIC, SOCIAL AND  
CULTURAL RIGHTS (continued)

1. Mr. KABBANI (Syria) said that he supported the eleven-Power text (A/C.3/L.1177) as a whole but proposed a slight amendment to the first sentence, which he considered weaker than the text originally suggested by the Director-General of FAO and later put forward by the Saudi Arabian representative (A/C.3/L.1172). According to the eleven-Power text, States were to recognize the right of everyone to be free from hunger, and not merely the importance of that right. He therefore proposed that the beginning of the text before the Committee should be amended as follows: "The States Parties to the present Covenant recognize the right of everyone to be free from hunger. They shall take measures . . ."

2. He earnestly hoped that the sponsors of the draft would be able to accept that amendment but, if they were not, he would request a separate vote on the words "fundamental importance".

3. Mr. ALATAS (Indonesia) stated that not only did his Government recognize the right enunciated in the draft under discussion, but that the provision of adequate food and housing for all was the main point of its development programme. For several years, the Indonesian Government had been engaged in the attainment of that goal through the continuous improvement of agricultural production—by extending irrigation and the production of fertilizers—through the rationalization of stockpiling and distribution systems, through the organization of nutritional information campaigns and, above all, through land reform. His Government therefore whole-heartedly supported any

international action against hunger, including the FAO campaign. It also endorsed the Director-General's appeal for the inclusion of appropriate provisions in the draft Covenant on Economic, Social and Cultural Rights.

4. Despite the provisions already contained in combined articles 11 and 12 of the draft Covenant, his delegation considered it appropriate to emphasize, in a special clause, the importance of the right to freedom from hunger in comparison with the other rights enunciated in the Covenant. It welcomed the fact that the new text before the Committee proposed the addition of such a clause to combined articles 11 and 12, rather than a separate article, and also that it clearly enunciated the right in question without attempting a detailed enumeration of measures to ensure the enjoyment of that right, the formulation of which fell within the purview of such specialized organs as, for instance, the Second Committee.

5. He emphasized, however, that in the view of his delegation the measures and specific programmes mentioned in the text should always be viewed within the framework of total development, the balance of which might be upset if one particular category of measures was given undue priority in relation to others. He would have liked that point to be made clear by the insertion, after the word "measures", of the words "within the context of national programmes of economic and social development". Being satisfied, however, that the proposed text should be interpreted in that manner, he would vote for it without pressing his amendment.

6. Mr. YAPOU (Israel) said that his delegation supported the text before the Committee but would have preferred greater conciseness in the drafting.

7. The principle enunciated in the text would be a useful addition to those already contained in article 25 of the Universal Declaration of Human Rights and in combined articles 11 and 12 of the draft Covenant on Economic, Social and Cultural Rights (see A/3525, para. 144), and also to the principles proclaimed in the encyclical *Pacem in Terris*. His delegation believed, however, that the Third Committee should emphasize the importance it attached to the taking of practical and immediate measures, following the example of the Second Committee, which had before it a draft resolution on a world campaign against hunger, disease and ignorance (A/C.2/L.747). His delegation did not consider it necessary to present a similar draft resolution to the Third Committee, but it felt that the Chairman, on behalf of the Committee, might inform the General Assembly in plenary and the Second Committee that it supported the proposed campaign.

8. Mr. HERNDL (Austria) said he was pleased that the Third Committee had had an opportunity to discuss a problem which was now more acute than ever. All

members were obviously agreed on the need to employ every means against hunger and one of those means was to guarantee the right of the individual to be free from hunger by requiring States to take various measures and, in particular, to improve their methods of food production and distribution.

9. In his delegation's view, a more effective way of awakening world opinion to the needs enumerated in the draft would have been to adopt a separate declaration, rather than to insert a new paragraph in the draft Covenant on Economic, Social and Cultural Rights. Nevertheless, it shared the concern of the sponsors, and would therefore vote for their text.

10. Mrs. MANTZOULINOS (Greece) said that she would like to propose to the sponsors some slight amendments of form which she believed would improve the text. The words "which are needed", at the end of the introductory paragraph, should be replaced by the words "if and where needed", and the words "if necessary" should be inserted before the words "by developing or reforming" in sub-paragraph (a).

11. She proposed that the meeting should be suspended for fifteen minutes, in order that the sponsors of the draft might consult among themselves concerning the suggested amendments.

*The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.*

12. Mr. ELUCHANS (Chile) stated that the sponsors of the proposal before the Committee had accepted the suggestion made by the Syrian delegation, which had become a sponsor of the draft. The beginning of the text would therefore read: "The States Parties to the present Covenant, recognizing the fundamental right of everyone...".

13. The sponsors regretted that they could not accept the Greek suggestions, as they considered that the need to take measures and to adopt specific programmes for attaining the objectives enumerated in sub-paragraphs (a) and (b) should not be enumerated in the first part of the text in a hypothetical manner, as would be the case if the first Greek suggestion was accepted. That delegation's second suggestion would weaken the text of sub-paragraph (a) and would make it unnecessarily complicated, since that text, as at present worded, committed each State to decide, in the full exercise of its sovereignty, whether it should establish a new agrarian system or reform the existing one.

14. Mrs. MANTZOULINOS (Greece) said that she was maintaining her proposals as amendments to the text before the Committee.

15. Mr. YAPOU (Israel) said that he thought the word "problems", in sub-paragraph (b), was not very explicit, and suggested that it should be replaced by the word "interests"; the first phrase would then read: "Taking into account the interests of both food importing and exporting countries".

16. Mr. ELUCHANS (Chile) said that his delegation, for one, could not accept the Israel representative's suggestion because, in its view, the distribution of food supplies should be based not solely on the interests of the countries involved or on purely economic grounds, but also on social and humanitarian considerations which were implicit in the word "problems" and might not be covered by the word "interests".

17. Mr. YAPOU (Israel) said he would not press his suggestion.

18. Mr. CAPOTORTI (Italy) pointed out that the need for States to adopt specific programmes, to which the Chilean representative had referred, was not expressed so clearly in the French text as in the English and Spanish texts: owing to that slight disparity, the latter two texts would impose more precise obligations on States than the French text. Since all three texts were supposed to be authentic, the Italian delegation would like to know, before voting on the draft, whether the French text reflected the intentions of the sponsors. If so, the word "necessary" might be inserted before the word "measures" in the English text and the word "necesarias" after the word "medidas" in the Spanish text.

19. Miss WACHUKU (Nigeria) thought that the English text would be unnecessarily complicated by the insertion of the word "necessary". She also endorsed the Chilean representative's comments regarding the need for States to take measures and adopt specific programmes. She would, therefore, prefer the French text to be brought into line with the English text.

20. The CHAIRMAN observed first, that the text had originally been drafted in English and Spanish, and second, that the Italian proposal to insert the word "necessary" before the word "measures" would require the deletion of the words "which are needed" from the end of the phrase, and would thus come close to the Greek amendment which the sponsors had felt unable to accept. He believed, therefore, that it would be best for the Committee to vote on the basis of the English and Spanish texts and to leave the concordance of the texts to be dealt with by the Rapporteur, in consultation with the Secretariat translation services.

21. Mr. ELUCHANS (Chile) entirely agreed with the Chairman, especially as the disparity between the French and Spanish texts appeared to him to be very slight. In his view, both texts clearly enunciated the need both to take measures and to adopt specific programmes as part of those measures.

22. Mrs. MANTZOULINOS (Greece) said she would withdraw the first of her amendments, if the English text was brought into line with the French text by inserting the word "necessary" before the word "measures".

23. Mr. DAS (Secretary of the Committee) feared that the translation services would be faced with a difficult problem and that the suggested amendments might be challenged if they were incorporated in the text after it had been adopted.

24. The CHAIRMAN suggested that, in the circumstances, the Committee should defer the vote until the 1269th meeting, in order to allow the translation services to draft the text in all three languages in consultation with the sponsors.

*It was so decided.*

25. Mr. OSTROVSKY (Union of Soviet Socialist Republics) thought that the Russian translation of the text was not satisfactory and should also be revised.

#### MEASURES OF IMPLEMENTATION (continued)

26. Mr. FARMAN FARAMAIAN (International Labour Organisation) said that he would outline the ILO's current procedures for checking the application of international instruments dealing with labour. He

would be brief, since he did not wish to reiterate in detail the information in the explanatory paper by the Secretary-General (A/5411) which was now before the Committee and which the International Labour Office had helped to prepare.

27. In the more than forty years of its existence, the ILO had concerned itself not only with the preparation of international conventions and recommendations, but also with the creation of conditions conducive to their application, an activity indispensable to the success of the ILO's work of setting standards. It would be remembered that the ILO had a tripartite structure, grouping representatives of Governments, workers and employers, and its implementation procedures were therefore somewhat special and not necessarily applicable in the case of international instruments prepared by other organizations. The ILO drafted conventions and recommendations imposing certain obligations on member States: all countries ratifying a convention had to adopt the measures required to give effect to its provisions, maintain national law and practice in complete harmony with those provisions as long as they remained valid, and to submit to the International Labour Office a report on the measures taken to give effect to the convention (article 22 of the ILO Constitution); in the case of unratified conventions and of recommendations, member States must, under article 19 of the Constitution, submit, as requested by the Governing Body, a report showing to what extent national law and practice conformed to the provisions of the instruments in question.

28. The International Labour Office had to ensure that obligations were complied with; from the very outset a system of supervision and penalties had been instituted, which had proved its worth in the forty years of the agency's life. Each year, States which had ratified a convention must submit to the Office, in the form prescribed by the Governing Body, a report describing the measures adopted to give effect to the provisions of the convention. The reports were examined by the Committee of Experts on the Application of Conventions and Recommendations—an international committee of independent experts, of the highest competence and great moral authority, who were appointed by the Governing Body. The committee made a preliminary technical study of the reports, to determine whether the law and practice of the States concerned met the requirements of the convention. The committee's observations were communicated to all Governments and then submitted to the International Labour Conference. Thereafter they were examined by a tripartite committee appointed by the Conference to which the representatives of States whose reports did not give entire satisfaction were invited to furnish information. Debates in the tripartite committee were sometimes very animated, and the procedure outlined, in which the representatives not only of Governments, but also of employers and workers took part, was undeniably effective. The substance of the debates and the committee's conclusions were included in a report which was submitted to the plenary Conference and which constituted a record of the progress achieved and the work still to be accomplished.

29. Apart from the supervision exercised by the Conference, industrial associations of workers or employers were entitled to make representations to the International Labour Office concerning any Government, even a foreign Government, which, having

ratified a convention, did not in their view apply it properly. The Governing Body could invite the Government in question to supply explanations and could publish them if it did not regard them as satisfactory. Similarly, any State Party to a convention could file a complaint against another State Party; in that case, the Governing Body could instruct a commission of inquiry to examine the complaint, and if one of the two parties did not accept the commission's conclusions, it could submit the dispute to the International Court of Justice, whose decision was final. If the recommendation of the commission of inquiry or the International Court of Justice were not carried out, article 33 of the ILO Constitution empowered the Governing Body to propose to the Conference any measure it deemed expedient.

30. Experience showed that the system of reports combined with persuasion was highly likely to lead to the adoption of appropriate measures at the national level. The flexibility and the consequent effectiveness of that arrangement had made it possible to avoid recourse to the other methods of supervision and the penalties provided by the ILO Constitution. Thus in 1962, a request for information had been made under article 19 of the Constitution with regard to the Convention concerning Discrimination in Respect of Employment and Occupation. In 1963, the committee of experts had submitted the assembled information to the forty-seventh session of the International Labour Conference in a special report to which all delegations were free to refer. On that occasion, the experts had found it encouraging that, barely four years after the adoption of the Convention by the Conference, thirty-nine countries had already given a solemn international undertaking to promote equality of opportunity and treatment in employment and occupation.

31. Similar studies on compliance with the instruments relating to forced labour, minimum standards of social security, trade union freedom and equal remuneration had been carried out in recent years by the procedure laid down in article 19. Certain general conclusions emerged from those studies, providing an indication of the social progress achieved. They also supplied each member State with information on the problems arising in other States and on the steps taken to eliminate the obstacles in the way of the ratification or effective application of international instruments. Lastly, they made it possible to review the situation under the ILO's implementation procedure.

32. In conclusion, he recalled that the ILO had assisted the United Nations in elaborating special supervision procedures in certain matters of common interest. Thus in 1951, the special United Nations/ILO Ad Hoc Committee on Forced Labour had been set up, which had paved the way for the adoption by the International Labour Conference of the Convention concerning the Abolition of Forced Labour in 1957.<sup>1/</sup> Again, a special procedure to safeguard trade union freedom had been established in 1960 under the joint auspices of the United Nations and the ILO, and a tripartite committee of the ILO Governing Body had been instructed to consider complaints relating to the violation of trade union freedom. The ILO had thus laid solid legal foundations in the important sphere of human rights by preparing a whole series of conven-

<sup>1/</sup> See Official Bulletin of the International Labour Office, Vol. XL, 1957, No. 1, Convention 105.

tions; but it was placing increasing emphasis on the study of the conditions particular to each country, with a view to selecting the best ways of carrying out the economic and social measures needed to strengthen human rights. That was the course which the ILO proposed to follow, and it was prepared, in collaboration with the United Nations, to do its duty in matters falling within its jurisdiction and referred to it in connexion with the implementation of the draft Covenant.

33. Mr. JERNSTROM (Finland) praised the explanatory paper by the Secretary-General, which brought the earlier documentation on the draft Covenant up to date in the light of the important developments that had occurred in the field of human rights, and particularly of the marked tendency to raise the status of the individual in international law. As the paper showed, several conventions now in force provided opportunities for individuals to submit petitions to international organs in matters concerning their rights. It should also be noted that the distinction between legally binding conventions and declarations, which were only morally binding, tended to become less marked, since, for example, an implementation system providing for the right of individual petition had been established in the case of the Declaration on the granting of independence to colonial countries and peoples (General Assembly resolution 1514 (XV)). Those were important developments, which would certainly have a bearing on the measures for the implementation of the draft Covenants.

34. The provisions of the draft Covenant on Economic, Social and Cultural Rights were to be applied progressively, and his delegation considered that a system of regular reporting, as now provided for in the draft, was an essential part of any measures of implementation. It was also of the opinion that the comments of non-governmental organizations might be useful during the examination of the reports; the system of triennial reports on important developments in the field of human rights—which might be said to be a forerunner of the reporting system prescribed in the Covenant—also provided for the participation of non-governmental organizations, as stated in the explanatory paper (see A/5411, para. 31). He assumed that the practice would be maintained, and in the circumstances it was perhaps not necessary to include a separate article on the role of such organizations.

35. As could be seen from the "Annotations on the text of the draft International Covenants on Human Rights" (see A/2929, paras. 38-45), the question of applying to some economic, social and cultural rights the Human Rights Committee procedure envisaged in the draft Covenant on Civil and Political Rights had been debated, although no provision to that effect was now included in the draft. His delegation was inclined to agree that there would be little point in adopting such a procedure in the case of rights intended for progressive implementation, particularly since most of the substantive articles of the draft Covenant required States Parties merely to recognize the rights set forth. There was, however, at least one exception: in article 8, the States Parties undertook to ensure the exercise of certain trade union rights; such a provision was not necessarily a matter for progressive implementation, and a periodic reporting system might accordingly prove insufficient. It appeared from the ILO representative's interesting statement that the question was covered by existing ILO procedures.

36. With regard to the measures for the implementation of the draft Covenant on Civil and Political Rights, his delegation on the whole favoured the establishment of an international Human Rights Committee to examine complaints and make recommendations. In the light of the material provided in the Secretary-General's explanatory paper, however, it was not fully convinced that none but States Parties should have the right to submit complaints to the Human Rights Committee. In a matter concerning the rights of individuals in a particular State, he failed to see how another State, having neither information nor any particular incentive, could initiate proceedings for individuals whose fundamental rights had been violated. The practical experience of complaints made by States (see A/5411, paras. 52-55) showed that such procedures, when available, were seldom used. His delegation would therefore study with interest any proposal making it possible for the individuals principally concerned and perhaps also for non-governmental organizations to submit petitions to the Human Rights Committee, provided, of course, that available domestic remedies had been exhausted. In his view, that matter should be studied carefully by all delegations before the nineteenth session of the General Assembly.

37. Mr. CUEVAS CANCINO (Mexico) said that the implementation clauses of the draft International Covenants on Human Rights were of the highest importance in view of the contribution they were intended to make to the full and harmonious development of the human person.

38. At the international level the individual had until recently been considered to have only duties; rights had been attributed solely to States. The Red Cross had been the first institution to give practical form to the desire for individual protection at world level. The Red Cross had been founded to express a clear and precise realization that man, though the victim of international events, did not enjoy the corresponding benefit of assistance from international bodies. Today that manner of thinking continued to prevail in the work of such organizations as UNICEF. But on that point of view there had lately been superimposed another, which would treat the individual as an active subject of the world; the nature and antecedents of the fascist dictatorships had clearly shown the need to draw a connexion between peace and human rights. Those two ideas had been incorporated in the United Nations Charter, which proclaimed the necessity of protecting human rights and entrusted that task to the General Assembly, the Economic and Social Council, and the Commission on Human Rights.

39. What had still been needed, however, was international machinery which would give those humanitarian desires a counterpart in international respect for human rights. From the beginning, the United Nations had endeavoured to bind States by laying down precise obligations. It had encountered, and still encountered, the problem of ensuring the protection of human rights without infringing the sovereignty of States. Some countries had thought it possible to solve the problem by inserting a declaration of the rights of the individual in the Charter, and the Panamanian delegation had submitted a proposal to that effect at the United Nations Conference on International Organization, held at San Francisco in 1945. Although the idea had not been upheld, the need had been recognized for drawing up a universal declaration which would later be supplemented by covenants

stating precise obligations for Member States. The Universal Declaration of Human Rights reflected some of the aspirations he had mentioned, and could be called the corner-stone of a better moral world. But the efforts of the Organization had not stopped there: it had developed covenants stating definite obligations, on which he would comment briefly.

40. It was important, in the first place, to understand clearly the place which the protection of human rights had in the contemporary world and the difficulties which faced it. The diversity of civilizations represented in the United Nations, and the varying degrees of development of countries, greatly complicated the problem. In time of peace individual interests tallied completely with the general interests, but that was not always so in time of crisis. The developing countries were in a particularly sensitive position, since they had to give first priority to the promotion of industrial development without letting it impair human rights.

41. Historical factors also had to be taken into consideration. Most countries represented in the United Nations had a colonial past: at some time in their history they had been dominated by materially more advanced Powers. Those Powers had not infrequently invoked the notion of individual self-realization to justify their expansionism. History provided many examples of so-called international rules benefiting only citizens of powerful nations—which had proudly assumed the title of civilized countries. Hence there had arisen two systems for the protection of the individual: national protection given by each State to its nationals, and international protection which did not take into account the institutions of the so-called backward countries and applied exclusively to foreign nationals. It was hardly necessary to point in that connexion to the unjust treaties which had for so long subjected great countries to foreign interests.

42. The implementation clauses of the draft Covenants should be viewed in the light of those considerations. Clearly the Commission on Human Rights had thoroughly analysed all the problems before evolving the system on which the Committee was now asked to pronounce. For the draft Covenant on Civil and Political Rights it had envisaged the establishment of a Human Rights Committee which would consider complaints lodged by one State Party against another. For the Covenant on Economic, Social and Cultural Rights the Commission had proposed an obligation for States Parties to submit reports concerning the progress made in achieving the observance of the rights recognized in the Covenant.

43. He believed that the Committee should keep in mind the time factor. The articles had been drafted by the Commission on Human Rights ten years before, and several years would no doubt pass before the Covenants were finally adopted by the General Assembly. Their ratification and implementation would require additional periods of time. An attempt should therefore be made to envisage the general situation in which the Covenants would be implemented.

44. The world of peace and understanding, of which the countries meeting at San Francisco had dreamt, had not come into being; neither had national realities changed since then. In a world where internationalism was growing constantly stronger, man was being bound more and more closely to his nation. The Mexican delegation therefore considered that the implementa-

tion clauses must make due allowance for national realities and must not exist solely at the level of ideals. The Covenants should be noteworthy first and foremost for their practical effectiveness, and should protect human rights realistically. The countries which were ahead in provision for human rights often asked the less developed countries to submit to international supervision. They limited that request, however, to political and civil rights, recognizing the relative nature of economic, social and cultural rights. He for one wondered whether the full exercise of civil and political rights did not also depend on the achievement by a State of a certain degree of development. If supervisory measures were put into effect too quickly, the internal order of the weaker nations would be disturbed, and the pretext of protecting human rights would be used to justify fresh interference by great Powers in the domestic affairs of less developed countries.

45. That some of the obstacles he had pointed out had already been overcome was demonstrated by such instruments as the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, and the draft convention on human rights prepared by the Inter-American Council of Jurists. Nevertheless, it should be remembered that those instruments applied to distinct regions which had common values and a common past. Moreover, it was not certain that problems solved regionally might also be solved internationally. The conventions adopted by the ILO and by UNESCO were more helpful, for although they applied to limited spheres they arose from a desire to ensure effective implementation of civil rights.

46. In the face of those precedents it must be granted that a State Party to the Covenants should be able in certain circumstances to lodge with a permanent body complaints against another State Party which had failed to comply with the provisions of the draft Covenant. International machinery of that kind must be handled delicately, since it was important to avoid enabling powerful States to claim violation of human rights in order to serve their political interests. Article 41 of the draft Covenant on Civil and Political Rights provided that the Human Rights Committee appointed to consider complaints could do so only if available domestic remedies had been invoked in the case and exhausted. In declaring that all domestic remedies had been exhausted, the State lodging the complaint passed judgement on a question relating directly to the internal affairs of the other State. When his delegation had submitted an amendment to article 4 of the draft Covenant on Civil and Political Rights enabling judgements of that nature to be made, the amendment had been widely criticized from a traditionalist view of the internal autonomy of the State. His delegation therefore considered that it would not be prudent to adopt a course which would restrict the State's internal judicial autonomy. There was a risk, indeed, of reviving abuses which the formerly colonized countries had suffered in the past, for the intervention by the foreign State was not likely to be prompted solely by concern for the rights of the individual.

47. Furthermore, the implementation clauses did not enable individuals or private organizations to complain directly to the Human Rights Committee. In that way abusive and unfounded complaints were avoided, but at the same time the right to complain against viola-

tions was reserved exclusively to States; hence human rights were again made a subject of high-level international negotiation.

48. There was accordingly nothing new in the machinery provided by the draft Covenant on Civil and Political Rights. It was the same machinery as had once enabled powerful States to interfere in the affairs of weaker nations; it prevented intervention by bodies whose sole interest was implementation of the rules of law, and it prohibited a weak State from demanding

that the provisions of international instruments should be respected in the territory of powerful States.

49. His delegation hoped that the imperfections of the implementation clauses might be eliminated. In his view the Committee should, before all else, bear in mind the realities of the present-day world and adequately protect the autonomy of developing countries. Only in that way could it ensure that the Covenants would effectively defend human rights.

The meeting rose at 1.10 p.m.