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Chairman: Mr. G. J. VAN HEUVEN GOEDHART (Netherlands).

**Draft first international covenant on human rights and measures of implementation (A/1384, A/C.3/534, A/C.3/535 and E/1681) (*continued*)**

[Item 63]\*

1. Mr. ALTMAN (Poland) wished first of all to point out that, as distinct from the Universal Declaration of Human Rights, which was of a moral character, the draft covenant would be important as a document of international law. As the States signing or ratifying that document or the States acceding to it would be bound by a strictly legal undertaking, the covenant should in its terms and form be so drawn up that the obligations deriving from it would be precise and clear. It was the opinion of the Polish delegation that, as it stood, the draft did not meet those requirements and that as far as the first eighteen articles were concerned it was not at all satisfactory.

2. Mr. Altman was of the opinion that a number of things had been left out of the draft covenant. Most important was the omission of economic, social and cultural rights. As that was a separate question in the Committee's debate, he reserved the right to intervene later on the subject. He wished, however, to make it clear that those rights, which were the very foundation of democracy, could not in any way be separated from the recognized civil and political rights of individuals.

3. He cited as another basic deficiency the omission of the right of citizens to take part in the government of the State, to elect and be elected to all governmental bodies—by universal, equal and direct suffrage and secret vote—and the right to hold any State or public office. The obligations assumed by the States under the first article would indeed lose much of their value if each citizen were not enabled to participate in the framing of laws and thereby in the government of the State.

\* Indicates the item number on the General Assembly agenda.

4. Another deficiency of the draft was the absence of an article on the rights of nations and peoples to self-determination and on the right of national minorities to use their native language and possess their own educational, cultural and national institutions.

5. The Polish delegation was of the opinion that, in order to meet the needs of the day, the covenant should above all be based upon the principle of guaranteeing the rights of the individual and that such guarantee should be directly linked to the guarantees defending democracy. In that connexion Mr. Altman regretted that the draft covenant provided no guarantee ensuring the defence of democracy against fascism. That deficiency was particularly evident in article 14, relating to freedom of expression. The Polish delegation thought that that article should, at the beginning, contain a clause stressing the peaceful nature that all information should have. Such information should furthermore counteract propaganda of aggression, and national, religious and racial hatred. Mr. Altman added that those remarks referred also to articles 15 and 16, the application of which should be limited in order to prevent fascists from using them to overthrow the democracies. He did not believe that either the articles he had cited or other articles, especially article 17, as they were drafted, guaranteed the rights in question; he thought that they were vague, arbitrary and inadequate.

6. Because of those omissions and defects in the draft and because the document did not guarantee the interests of the people, the Polish delegation had to conclude that the first eighteen articles required many improvements. Careful consideration should be given in particular to the various amendments proposed by the USSR delegation as they should be useful in drafting a satisfactory document.

7. Mr. HOFFMEISTER (Czechoslovakia) said that the Czechoslovak delegation, in considering the laws of the Czechoslovak Republic and the Constitution of 9 May 1948 in particular, could not help observing that any comparison between the provisions applied in

Czechoslovakia in the field of human rights and the articles of the draft covenant could only be to the disadvantage of the latter. For that reason the Czechoslovak delegation could not consider the draft as adequate or acceptable.

8. The citizens of his country, who enjoyed the advantages of democracy and participated, in peace and work, in the building up of socialism, would find it difficult to understand why other people were not permitted to enjoy the same rights. Knowing perfectly well that certain countries had entered upon a retrograde path and had renounced the freedoms and rights which they had previously acquired, the workers would certainly never understand why an international body as important as the United Nations had not attempted to raise the level of fundamental human rights as high as possible.

9. He pointed out that certain of the fundamental rights proclaimed in the Universal Declaration of Human Rights and set out in the draft covenant had not yet been given effect in all the countries of the world. Since, however, article 1 of the draft covenant recognized that situation in paragraph 2 and afforded the various peoples the possibility of urging their governments to recognize those rights, it appeared all the more necessary to embody in the draft covenant those criteria which were most favourable to the development of human progress. Neither the Third Committee nor the Commission on Human Rights should permit itself to be held back by the fact that certain States, although reputedly democratic, were in practice or in theory far from giving effect to the principles set forth in the draft.

10. While recognizing that it was very desirable to bring about the establishment of an international covenant and thus to translate a social and moral obligation into a legal obligation, the Czechoslovak delegation could not agree with the manner in which the majority of the Commission on Human Rights were proceeding towards that end, and it did not believe that full weight could be given to the opinion of a small group of persons the number of whom was insignificant in comparison with that of the great mass of workers in the world.

11. Mr. Hoffmeister was of the opinion that, if the covenant were accepted as it stood, it would be a hundred years behind the times. He drew the attention of the members of the Committee to certain articles of the 1948 Constitution of the Czechoslovak Republic in which the essential rights that should be included in the draft covenant were recognized. He cited in particular article 1, paragraph 2; article 2, paragraphs 1 and 2; article 3, paragraphs 1 and 2; and section 25 of the chapter of that constitution headed "Rights and duties of the citizen". He regretted that such provisions, and particularly the latter, relating to trade-union rights of the workers, had not been provided for in the draft covenant.

12. In alluding to the danger of a rebirth of fascism in certain countries, he likewise regretted the absence of any provision for the purpose of preventing rights and freedoms from being exploited for anti-democratic purposes and particularly for fomenting war. He believed moreover that the draft covenant was lacking in precision and clarity from the political, legal, logical

and grammatical points of view. In that connexion he recalled the remarks made on the subject of the draft by Mr. Pavlov, the USSR representative at the fifth session of the Commission on Human Rights (E/CN.4/SR.135).

13. Mr. Hoffmeister noted with satisfaction, however, that the draft guaranteed a minimum of personal rights and freedoms that were not granted in many of the civilized capitalist States. Nevertheless, the draft covenant could not, as it stood, satisfy the Czechoslovak delegation, and he stated that he would therefore be obliged to reply in the negative to the two questions raised in the note by the Secretary-General (A/C.3/534), namely, whether the catalogue of rights contained in the first eighteen articles was adequate and whether those eighteen articles as drafted were sufficient to protect the rights to which they related.

14. He did not intend to discuss the articles item by item unless such a discussion should become necessary in the course of the debate. He wished, however, to draw attention to a provision of article 2, paragraph 2, which appeared to him to be vague and unsatisfactory. The words in question were "derogation which is otherwise incompatible with international law". In no part of the covenant was the character of the standards of international law clearly stated. Considering, however, the divergence of views existing—in the matter of property for example—between the socialist and capitalist States, it would be better in those circumstances to state clearly what was meant by international law.

15. Mr. Hoffmeister concluded by saying that his delegation wanted to help the Commission on Human Rights in its work but did not see how it could be of any real assistance if a terse reply to the questions was to be considered adequate and no amendments or proposals were submitted for the modification of various articles in the draft.

16. Mr. BEAUFORT (Netherlands) paid a tribute to the important work already accomplished by the Commission on Human Rights. He thought that the draft covenant was a step forward towards the achievement of fundamental human rights and freedoms throughout the world. That did not mean, however, that his delegation had no objections or criticism to make.

17. Before replying to the first question raised in the note by the Secretary-General (A/C.3/534), namely, whether the catalogue of rights was adequate, consideration should be given to the general aspect of the covenant. It was certain, for instance, that social and economic rights could not be judged and recognized everywhere by the same criteria. But there were other rights that could be universally guaranteed because they were independent of special circumstances or a given level of civilization.

18. Mr. Beaufort therefore wondered why the Commission on Human Rights had not yet proposed consideration of the right of parents "to choose the kind of education that shall be given to their children" which was included in the Universal Declaration of Human Rights. Despite its cultural aspect, that right implied important duties; if it was not recognized, the idea of freedom of conscience as envisaged in the draft covenant would be incomplete. The lessons of Nazi ex-

perience showed how acute that problem could be when children were taken from their parents and indoctrinated by the State. At the instigation of the Netherlands delegation, the Consultative Assembly of the Council of Europe had solemnly recognized and proclaimed that right in its draft convention for the protection of human rights and fundamental freedoms.

19. The Netherlands delegation therefore urged the inclusion of that right in the draft covenant and reserved the right to give careful consideration to any suggestion to incorporate other rights therein.

20. In regard to the second question raised by the Secretary-General, namely, whether the eighteen articles as drafted were adequate to protect the rights to which they related, he recalled the view expressed by the United Kingdom representative (288th meeting) that the definitions were much too vague to be accepted by his Government. Having heard the statement of the United States representative, which had only confirmed that opinion, he wondered whether the Commission had not aimed too high and whether it would really be possible to follow up the Universal Declaration by an international covenant on human rights. He hoped that his doubts would not prove justified.

21. He associated himself with his colleagues in requesting that the rights included in the covenant should be defined as clearly as possible. He also agreed with several of them that the Commission could not be accused of imprudence on the subject of the exceptions or limitations it was necessary or desirable to make in regard to various rights. He wondered what would be left of the rights referred to in articles 8, 13, 14, 15, etc., if they were only recognized subject to exceptions and limitations. It would be easy for dictators to violate several fundamental human rights while remaining within the framework of the covenant.

22. He pointed out that, if it proved impossible just then to draw up a satisfactory document, it would be advisable to show the greatest modesty in giving publicity to the work accomplished. He thought that the Department of Public Information of the Secretariat tended sometimes to give the world a false impression of the achievements. In order to avoid any disappointment in the future, too optimistic a picture should not be given of results that were, unfortunately, only modest.

23. Referring to paragraph 2 of article 1, in the terms of which "Where not already provided for by existing legislative or other measures, each State undertakes to take the necessary steps, in accordance with its constitutional processes and with the provisions of this Covenant, to adopt within a reasonable time such legislative or other measures as may be necessary to give effect to the rights recognized in this Covenant", Mr. Beaufort expressed the fear that that provision might lead to abuse. He would prefer a precise time limit of one or two years. Nevertheless, article 38 seemed to constitute a palliative in that respect, since it entitled any State Party to the covenant to see to it that the other Parties fulfilled their obligations, and, if they did not, to address a complaint to the State in question and, if the matter was not adjusted to the satisfaction of both Parties, to refer the matter to the human rights committee, the establishment of which was provided for in the draft covenant. There was thus a measure of

supervision which should enable the expression "reasonable time" to be applied in an equally reasonable manner.

24. Mr. KAYSER (France) was glad that the debate enabled all States Members of the United Nations which did not belong either to the Commission on Human Rights or to the Economic and Social Council to express their views on a question of such universal interest as the draft covenant under consideration. He did not doubt that their observations, suggestions and criticism would be a valuable contribution to the future work of the Commission on Human Rights.

25. Commenting on the first question put to the Committee, namely, the general adequacy of the first eighteen articles of the draft covenant, Mr. Kayser pointed out that the clarity of the French language required the term "adequacy" (*approprié*) to be qualified. The French delegation would therefore reply to the question whether the draft covenant was adequate in respect of the general spirit which should inspire the covenant on human rights. It was difficult to give an absolute answer to that question, simple as it appeared to be. It could be foreseen that replies would be neither "yes" nor "no", but would range from a "yes, but" to a "no—and yet yes". His delegation would answer the question in the affirmative, but not without reservations.

26. On the whole, the first eighteen articles appeared adequate in respect of the spirit which, the French delegation considered, should inspire the covenant under consideration. That delegation considered, however, that the text could be improved, both in substance and in form. To reject those texts would be to disregard the long efforts made by the Commission on Human Rights and oblige the Commission to start from scratch again. It would certainly be the wish of the General Assembly that the Commission on Human Rights should continue its work in the light of the current discussions, the summary records of which would be duly communicated to it.

27. France was a member of the Commission on Human Rights and the Economic and Social Council. Its position was therefore well known and Mr. Kayser did not intend to restate it in detail or embark on a critical analysis of the draft covenant article by article. He wished to stress, however, that the French Constitution, both in its preamble and in a number of its articles, went much further than the draft in question. Nevertheless, the question was not whether the covenant was the expression of all the aspirations which national constitutions had thought fit to satisfy; it was whether it was the expression of the greatest number of principles acceptable to all the States Members of the United Nations. That did not mean that the covenant should be based on the most conservative concepts. On the contrary, the Commission and the United Nations should make a true effort to draw up an instrument that would really be capable of leading peoples along the way of progress. The eighteen articles should be considered by delegations not in relation to the constitutions of their respective countries but in relation to the progress they represented in connexion with the situation prevailing in the world.

28. Mr. Kayser recalled that the texts in question were far from being final. The Commission on Human Rights itself would revise them, taking into account the opinions expressed in the current debate, and refer them to

the Economic and Social Council; the General Assembly would put the final touches to them.

29. Mr. Kayser wished, in particular, to draw the Committee's attention to the doubts that persisted in his mind concerning the idea of "public order" included among the exceptions. The French delegation had on several occasions requested clarification of that idea in order to avoid any abuse that dictators or potential dictators might commit under cover of it. The French delegation again urged the Committee to adopt the formula "public order in a democratic society", which would enshrine the democratic conception of that idea.

30. Addressing the representative of Poland, Mr. Kayser emphasized that it would be tantamount to prejudging the question to say at the current stage that social, economic and cultural rights had been omitted from the covenant on human rights. Indeed, one of the questions on which the Committee was called upon to give an opinion concerning the draft under consideration was precisely the insertion or exclusion of such rights.

31. It should not be forgotten, moreover, that the rights referred to in the covenant might subsequently be extended by means of special conventions. It was easy to conceive of a set of instruments that would be mutually complementary: the covenant, arising out of the Declaration and supported, in its turn, by special conventions. That was the system advocated by the Executive Council of UNESCO. Mr. Kayser reserved the right to revert to the question at the appropriate time.

32. He wished to give the Saudi Arabian representative the assurance that the French Republic, which had millions of Moslem citizens, took account of the religious, philosophical and cultural traditions of all its citizens. Many Moslem deputies sat in the French parliament. The covenant on human rights would be the subject of a debate in the Chambers at the time of its ratification, and the representatives of the Moslem population would participate freely and with full knowledge of the facts, for they would have weighed the merits not only of Mr. Baroody's arguments, but also of the opposite view, so eloquently propounded in Paris, in 1948, by Sir Mohammad Zafrulla Khan, the representative of Pakistan, in favour of the freedom to change one's religion.

33. Mr. Kayser recalled that, within the structure of the French Empire, the Moslem countries, Tunisia and Morocco, had their own legislation. France did not automatically bind them by the conventions it signed. That fact, which should dispel the legitimate anxieties of the Saudi Arabian representative, explained and justified the position taken by France in regard to the territorial application clause. But that was a question outside the scope of the current debate, and the representative of France would also reserve the right to revert to it in due course.

34. Mr. DAVIN (New Zealand) said that, as it had already stated at the beginning of the discussion on the subject, the New Zealand delegation was in general agreement with the catalogue of rights contained in the first eighteen articles of the draft covenant. Nevertheless, it felt that many of those rights were worded too loosely for insertion in a document of a legally binding character, such as the Covenant was supposed to be.

35. The New Zealand delegation, which was not a member of the Commission on Human Rights or of the Economic and Social Council, welcomed the opportunity to clarify certain points in the articles in question that seemed to it to be defective.

36. Article 1, paragraph 3 (b) stated that in the case of any person claiming a remedy, the States parties to the covenant undertook to ensure that his right thereto would be determined by competent authorities, political, administrative, or judicial. The New Zealand delegation thought it would be advisable to make it clear, in that sub-paragraph, that the independence of the authorities deciding whether a remedy should be granted must be guaranteed. The text before the Committee, while perhaps broader than that of the original article, was much weaker, in that it authorized arbitrary action by political or administrative authorities when a claim for remedy was made. It was essential that, whatever the nature of the tribunal, its independence should be secured.

37. The New Zealand delegation was sorry to note that an article appearing in the report of the Commission on Human Rights on its fifth session (E/1371) had been omitted. The article had provided that, on receipt of a request to that effect from the Secretary-General of the United Nations, acting in virtue of the powers conferred upon him by a resolution of the General Assembly, the government of any party to the covenant would supply an explanation as to the manner in which the national law gave effect to any of the provisions of the covenant. That article had been deleted in order to avoid any possibility of the majority of the Members of the United Nations availing themselves of the covenant to question, through the General Assembly, a State Party to the covenant. Nevertheless, the New Zealand delegation deemed it advisable that the draft article in question, which recognized the right of the General Assembly to concern itself with the implementation of the covenant, should be reintroduced.

38. Mr. Davin pointed out that article 2 no longer contained a provision that States availing themselves of the right of derogation should keep the Secretary-General of the United Nations informed of the measures enacted to that end and the reasons therefor. It would be advisable to re-establish that text, for surely the States parties to the covenant should state the reasons which had led them to take such a serious step.

39. Passing on to article 3, which related to the right to life, Mr. Davin observed that paragraphs 2 and 3 did not sufficiently define the circumstances in which the death penalty might be imposed. The meaning of the term "self-defence" must be defined, because it would seem that only the case of individual self-defence was contemplated. Collective self-defence in the event of war must be clearly mentioned.

40. In article 5, paragraph 3 (c) (ii), it was stated that the term "forced or compulsory labour" did not include, in the case of conscientious objectors, in countries where they were recognized, service exacted in virtue of laws requiring compulsory national service. That restrictive wording might have the effect of depriving conscientious objectors of protection under the covenant.

41. As regards article 6, Mr. Davin thought the term

"arbitrary arrest or detention" was too vague and uncertain in meaning to be used in defining the fundamental right which was the subject of the article. The limitation "except on such grounds and in accordance with such procedure as are established by law" might be open to abuse. It would seem necessary, in order to make the article effective, that the various cases in which an individual might be deprived of his liberty should be specified.

42. The New Zealand delegation considered that it would also be advisable to define article 8 more clearly, and proposed that paragraph 1 (b) should be amended to read as follows:

"Every person shall be free to move and choose his place of residence within the borders of the State, subject to any general law not contrary to the purposes and principles of the United Nations Charter and adopted for specific reasons of national defence or in the general interest. Any person shall be free to leave any country including his own, provided that he is not subject to any lawful deprivation of liberty or to any outstanding obligations with regard to national service or taxation."

43. The New Zealand representative thought article 10, paragraph 2 (c) should include provision for an accused person to have the right, not only to examine or have examined the witnesses against him, but to have the documents in the case produced.

44. The New Zealand delegation considered that article 12, as it stood, was not clear and would prefer a text worded as follows:

"No person shall be prevented from having access to the courts to obtain redress for any infringement of his civil rights nor shall any person, unless he is one of a class of generally recognized incapacity, such as minors, persons of unsound mind and persons undergoing imprisonment, be deprived in whole or in part of his legal capacity to enter into lawful contracts or other legal relationships."

45. Referring to article 14, relating to freedom of expression, Mr. Davin stated that his delegation would prefer an expression such as the one suggested by the United Kingdom representative: "necessary for the prevention of disorder or crime", to the expression "necessary to ensure public order". It would also prefer the substitution of the words "national defence" for the words "national security".

46. In article 15, he would prefer the wording "Everyone has the right to freedom of peaceful assembly", which had the double advantage of being stronger than the text before the Committee and of conforming with the remainder of the draft article. In the second sentence of the same article, where the expression "public order" again occurred, it would be better to use once more the expression "necessary for the prevention of disorder or crime".

47. In article 16, the New Zealand delegation would prefer that the text studied by the Commission on Human Rights at its fifth session should be retained: "Everyone shall enjoy the right of association".

48. The delegation of New Zealand wondered whether paragraph 3 of article 16 was pertinent, since that paragraph could not bind States not parties to the Freedom

of Association and Protection of the Right to Organize Convention of 1948. In its opinion it appeared needless, if not unwarranted, to make reference in the covenant to another international instrument.

49. The delegation of New Zealand believed that in article 17 the words "All are equal before the law: all shall be accorded equal protection of the law" were adequate and that the subsequent words could be omitted. Discrimination had already been condemned in a general way in article 1, and the latter part of the article seemed moreover to obscure the meaning of the two principles of equality before the law and equal protection accorded to all, which were the precise object of article 17.

50. Mr. VALENZUELA (Chile) believed, with the representative of France, that the debate would not fail to be of positive value in the study of the entire question of human rights. He recalled that his delegation had urged both in the Commission on Human Rights and in the Economic and Social Council that the question should be referred to the General Assembly so that all States Members of the United Nations could co-operate in the common effort and contribute to solving the many difficulties that had arisen.

51. The Chilean delegation was especially pleased to see the USSR representative participating in the debate. Although the discussions were concerned with the texts drawn up by the Commission on Human Rights at its sixth session, the intervention of the representative of the USSR indicated that he did not dispute the validity of the work accomplished by the Commission on Human Rights in the absence of his delegation, and the doubts which might have been entertained in that connexion had consequently been removed.

52. Mr. Valenzuela remarked that up to that point the debate had revealed a rather general disappointment. That sentiment had continued, moreover, to increase within the various bodies of the United Nations entrusted with the study of questions of human rights. The Commission on Human Rights and the Economic and Social Council had not been unaware of any of the technical—especially legal—and ideological difficulties which had been pointed out in turn by the various delegations that had so far taken part in the debate. The eighteen articles drawn up by the Commission on Human Rights and revised by the Council represented the maximum compromise that had been considered feasible by those bodies. Mr. Valenzuela was of the opinion that the General Assembly, through its Third Committee, had the duty of facing those difficulties squarely.

53. First of all, it could not ignore the ideological divergencies separating the delegations. The latter not only did not regard the rights inherent in the human person in the same manner, but they did not have the same conception of the relationships which should exist between man, the subject of rights, and the State. Moreover, the conception of man as a subject of rights was being more and more obscured, as international events of the last five years had shown, despite the progress which had apparently been realized in the field of theory. There was no denying that the last five years had marked a retrogression with regard to true respect for fundamental human rights and freedoms. The friendly atmosphere which characterized the current delibera-

tions of the General Assembly and the Third Committee in particular was not enough to encourage an optimism which was contradicted only too easily by the facts. The ideological conflicts had lost none of their sharpness.

54. In the second place, there were the difficulties deriving from the diversity of religious beliefs in the world, because each creed had its own laws, traditions and culture, which constituted so many more barriers between peoples.

55. Finally, when those factors were no longer of significance and certain rights not giving rise to ideological or religious problems had been isolated, there would inevitably arise another difficulty, namely, that of reconciling the various legal systems with regard both to thought and language.

56. One was therefore tempted to conclude that it was impossible to draw up a document that would be entirely satisfactory to all the States that would be called upon to sign it. The Commission on Human Rights had had for its part to admit an initial set-back when it had recognized the impossibility of drawing up a single covenant on human rights. It had experienced a second defeat when it had proved unable to agree on what should be considered fundamental human rights. For its part, the delegation of Chile could not imagine a covenant on human rights worthy of the name which did not include economic, social and cultural rights and particularly the right to work and the right to social security.

57. In those circumstances, the delegation of Chile wondered whether the time had not come for the Committee to admit frankly that in the existing state of affairs the drawing up of a covenant on human rights was an over-ambitious project and even a dangerous one in that it risked compromising the moral prestige enjoyed by the Universal Declaration of Human Rights. Even if the patient efforts of the Commission on Human Rights and of the Economic and Social Council had no other result than to make that conclusion apparent, they would not have been in vain.

58. Chile had always had faith in the moral force of the Universal Declaration of Human Rights. It believed that the authority of that Declaration should be strengthened and that its admirable contents should be made more widely known. A more worthwhile task would then be accomplished than if an incomplete or ineffective covenant or series of covenants were presented to the world.

59. Even if the eighteen articles were admitted to be satisfactory as a whole, it might well be asked what machinery was proposed for their implementation. The draft submitted to the Committee made provision only for State-to-State complaints, a formula which ruled out the right of indirect petition through non-governmental organizations as well as the right of individual petition. It was obvious that in the event of a violation of the draft covenant on human rights, one State would hesitate to complain to another at the risk of jeopardizing its diplomatic or commercial relations. The precedents established in the General Assembly were sufficiently convincing proof of that fact. It was easy to imagine what would become of the defence of individual freedoms if the task of ensuring respect for the covenant was left only to States on the conditions envisaged by the proposed measures of implementation.

60. Chile entertained serious doubts regarding the possibility of drafting a satisfactory covenant at that time. Nevertheless, it was reluctant to give way to premature pessimism and would be glad if the Committee examined the texts proposed to it and referred them to the Commission on Human Rights for consideration, provided it was understood that what was needed was a new effort to draft a satisfactory covenant which would include an enumeration of economic, social and cultural rights and that, at its sixth session, the General Assembly would honestly decide whether the time was ripe for the drafting of such an instrument.

61. Sayed Ahmad ZEBARA (Yemen) said that his delegation had carefully studied the text of the first eighteen articles of the draft covenant and felt, like the delegation of Saudi Arabia, that, as they stood, those articles completely disregarded a number of circumstances peculiar to the Arab and Moslem countries.

62. Under article 1, paragraph 2, the States parties to the covenant undertook to take the necessary steps to adopt such legislative or other measures as might be necessary to give effect to the rights recognized in the covenant, where such rights were not already provided for. He felt that the clause called for certain reservations and that it was necessary to make clear that a State could take such steps provided that, in so doing, it did not offend the religious beliefs of the inhabitants of its territory or run counter to the provisions of its national legislation. The adoption of articles 13 and 17 would raise great difficulties for the Arab countries, the legislation of which was largely religious in origin; article 13 stated that everyone was free to change his religion or belief while article 17 provided that all should be accorded equal protection of the law, without discrimination on any ground such as race, colour, sex, language, religion, etc. Article 17 did not take into consideration the differences between the laws of the various countries, in particular with regard to marriage, divorce and inheritance. Such differences of legislation occurred between European countries as well as between the Western and the Arab countries.

63. After citing a number of examples of differences in various national legislations, particularly in the matter of criminal law, he said that in any State the laws must evolve naturally and any amendments that might be made must originate in the State itself and not from a foreign or external source. It would be impossible to force a State to abandon traditional legislation which it had applied for centuries and which was known to be in conformity with the aspirations and needs of the people.

64. He examined the various articles of the draft covenant in order, from the point of view of form. In his opinion, article 4, in its existing form, implicitly condemned certain modern scientific methods currently applied by many countries to track down crime, methods which were authorized by law. It might therefore be necessary to amend the text of the article.

65. The word "arbitrary" used in article 6 seemed to be inexact; as the adjective merely meant contrary to the law, an act would cease to be arbitrary solely because the State promulgated a law justifying it. He also pointed out that, as it was worded, article 6, paragraph 4, seemed to imply that preventive detention was in fact the rule.

66. Article 8, sub-paragraph 1 (a), which provided that everyone within the territory of the State had the right to liberty of movement would not be complete until agreement was reached regarding a definition of the concept of territorial jurisdiction.

67. In article 10, paragraph 3, he pointed out that it was not sufficient to say that the victim of a miscarriage of justice should be compensated; it should be plainly stated that the compensation should be adequate.

68. In article 11, paragraph 1, it would be sufficient to state that no one should be held guilty on account of

any act or omission which did not constitute a criminal offence, under national law, at the time when it was committed, omitting any mention of international law. States would not apply provisions of international law unless they were already embodied in their national legislation.

69. In conclusion, he said that his delegation regretted that it could not regard the text of the first eighteen articles of the draft covenant as satisfactory.

The meeting rose at 1 p.m.