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Chairman: Mr. Jiří NOSEK (Czechoslovakia).

AGENDA ITEM 58

**Draft international covenants on human rights
(A/2714, A/2686, chapter V, section I, E/2573,
A/C.3/574) (*continued*)**

GENERAL DEBATE (*continued*)

1. Mr. MATTHEW (India) proposed that the general debate should be closed on Monday, 1 November.

2. Mr. TUNCEL (Turkey) did not think that many delegations were anxious to enter into a detailed consideration of the draft covenants. As the procedural debates had been very long, it might have been thought that many delegations would state their Governments' views; that did not seem to be the case. Perhaps the reasons for that situation should be sought.

3. Mr. PAZHAWAK (Afghanistan) thought that the general debate would not bring out anything new. In fact, several delegations would like to comment on certain parts of the draft covenants which meant that there would really be a first reading. He therefore suggested that the length of the general debate should be limited so that the Committee would know how much time it would have for the first reading.

4. Mr. JUVIGNY (France) asked whether there would be six meetings a week, always provided that there were enough speakers on the list.

5. The CHAIRMAN hoped that it would be possible for the Committee to sit six times during the current week. The list of speakers in the general debate would be closed at 12 o'clock on 27 October.

6. Mr. BAROODY (Saudi Arabia) wished to point out that in his view the General Assembly had committed a grave error when it had decided that two draft covenants should be prepared. Social, economic and cultural rights on the one hand and civil and political rights on the other were closely linked. The constitutions of several countries protected economic and political rights, but their provisions were inadequate. An economic and social disease was abroad and the war had been one of its manifestations: the United Nations should prepare an effective international instrument, to which all States could accede, to help in stamping out the causes of that disease.

7. It would admittedly be difficult to obtain the necessary two-thirds majority to repeal the decision that two separate draft covenants should be prepared, but he thought that the United Nations would have taken a great step forward if it succeeded in obtaining a large number of accessions to the two covenants simultaneously. It was regrettable that certain major Powers had already announced that they would not accede to the covenants. The smaller countries looked to those Powers for guidance and an example. If only small countries acceded to the covenants, their purpose would not really be achieved, because it was the major Powers which controlled the world economic situation, the source of so many disputes. If the major Powers did not accede to the covenants, the economic causes of wars and revolutions would go on. Promises were not enough: it was not enough to promise work to men; they had to be given it, or they would rise in revolt. If the draft covenant on social, economic and cultural rights was adopted at the same time as the draft covenant on civil and political rights, a number of problems would be solved, as the peoples might then have a hope that something would at last be done to ensure respect for their legitimate rights. He had stated those general considerations at the outset and had alluded to certain principles because he thought that persuasion would give better results than pressure. Representatives to the United Nations were accustomed to being patient; they knew the face of the world could not be changed in a day. But the peoples were impatient; they were calling for speedy action and that was a fact which had to be taken into account.

8. He wished to comment on some of the articles in the draft covenants, the principle underlying article 7 of the draft covenant on social, economic and cultural rights was fair, but he wondered who was to be the judge with regard to the value and volume of work. The United Kingdom representative had pointed out that in many countries foreigners did not have the same rights as nationals. Article 7 did not take that fact into consideration.

9. In the English text of article 10, paragraph 1, the word "motherhood" occurred. That term was too abstract, but he would not propose an amendment before the second reading.

10. Article 15 was based on a just principle, but the wording was not clear. The United Kingdom representative had said that the question with which the article dealt was within the competence of the United Nations Educational, Scientific and Cultural Organization, in other words, that UNESCO should be responsible for its application. If that were the case, some Governments might refuse to implement the provisions of the article. He did not agree with the United Kingdom representative and accordingly thought that the

inclusion of the article in the draft covenant was fully justified.

11. With regard to article 18 of the draft covenant on civil and political rights, his delegation had raised certain objections at previous sessions, as a result of which the proposed text had been slightly amended. As it stood, paragraph 1 of the article had two separate parts. The first phrase affirmed a valid principle, set forth in a form which he considered absolutely appropriate, but the same did not apply to the end of the paragraph. He wondered why, since three different freedoms, those of thought, conscience and religion, were enumerated, the only details given referred to the last of the three. The official explanations he had been given did not satisfy him. The concept of freedom of thought doubtless required no explanation, if it referred only to thoughts which were not expressed; the problem was quite otherwise when it came to the right to express thoughts. With regard to freedom of conscience, there were several factors, in particular the cultural traditions of each individual, to be taken into account when determining the sincerity of the persons concerned. It would probably not be too hard to work out the necessary details. Nothing had as yet been done in that connexion, apparently in order to avoid raising delicate ideological issues. For example, there were undeniable contradictions between the capitalist and Communist philosophies; it might perhaps be better not to refer to such differences in an international instrument. In the circumstances, however, he did not see why a different procedure had been followed in respect of freedom of religion. It went without saying that freedom of religion in fact existed; everybody had the right "to maintain or to change his religion" at will and there seemed to be no point in laying such stress on it. According to confidential information, the source of which he could not reveal, the passage had been included at the request of some missionary organizations. It so happened that Islam, which had about 400 million adherents throughout the world, enjoying complete freedom of thought, conscience and religion, had never undertaken any missionary work and had never engaged in systematic proselytizing. If the covenant was to include an article to safeguard the rights of missions, Moslems, who had never sought to convert others, would be at a disadvantage. Religion was after all a personal matter, a question for each individual conscience; religious faith contained purely emotional elements and the relations between a believer and his god were essentially intimate. Particular care should accordingly be taken not to injure legitimate susceptibilities. A member of the Pakistan delegation had referred to the koranic precept that there was no compulsion in religion. There had been references to the propagation of faith by persuasion; there had to be some agreement on the methods to be used. The fact that some countries had attained a high level of technical development and could build schools and hospitals in territories other than their own did not mean that their religion was better than others. To claim that would be to accept an unjustifiable principle of inequality. Even if the Moslem countries accepted article 18 as it stood, their peoples would be justified in protesting and in pointing out that its provisions gave preferential treatment to the missionary religions, and therefore to the countries with large material resources. He had already drawn the Committee's attention to that important point on several occasions. In any case,

there were in the world, even in Europe, sovereigns bearing the title of "defender of the Faith" who had not in principle the right to change their religion. It would be ridiculous to maintain that the provisions of the covenants should not apply to royalty. In that connexion the proposed text could only lead to complications later. For all those reasons, he asked that article 18 of the draft covenant on civil and political rights should be amended. In a spirit of compromise, he would be satisfied with the deletion of the words "freedom to maintain or to change his religion, or belief, and" He was not submitting that proposal solely in the interests of his own Government, but because, objectively, as a human being, he thought such an amendment essential. He had already stated his arguments on many occasions and hoped that he would not have to repeat them.

12. Article 1, which was common to both draft covenants, was of outstanding importance. It was essential to any covenant on human rights. Many countries had taken part in completing it, in particular those whose peoples knew by experience what it was like to live under the yoke of colonialism. The wording seemed quite satisfactory: paragraph 1 contained an affirmation of principle, and paragraphs 2 and 3 explained the scope of the principle. That article alone did honour to the Commission on Human Rights; it was of interest to millions of human beings who were crying for freedom. The members of the Commission represented free countries, some of which had enjoyed freedom for a long time, and their peoples therefore knew nothing about foreign domination or had forgotten what it implied. The delegations of the colonial Powers did not realize what feelings of outraged human dignity the inhabitants of dependent territories experienced.

13. It had been said that the article in question was unacceptable because it raised a political question. He would like to know what was not political, in the real meaning of the word, in relations between human beings. As Aristotle had rightly remarked, man was a political animal. Politics was not confined to matters of government; religious problems, for example, also depended on politics. The excuse put forward would not bear investigation. It had been said that the Charter of the United Nations advocated the *status quo* as regards colonial territories. The Charter was not a sacred text, a single reading of which would suffice to dissipate the unhappiness and suffering of mankind as if by magic. If the Charter were a final achievement, a last stage, discussions in the United Nations would be meaningless. No holy book had ever by itself prevented injustice or war. No one should try to hide behind the Charter in that way.

14. The colonial Powers officially refused to listen to the voices of the dependent peoples. Nowhere in the world had so many and such serious breaches of human rights been committed as in the colonial territories whose peoples were awakening to national consciousness. He drew attention in that connexion to an article on Morocco written by a member of the United States Supreme Court and published in the magazine *Look*. Two great peoples—the peoples of France and of Morocco—faced each other, separated by a moat of blood and misunderstanding. The real cause of that lamentable situation should be sought in the special economic interests of certain groups. He had explained the inner workings of colonialism at length at a previous meeting. The General Assembly had discussed the question

of Morocco, Tunisia and other territories and the colonial Powers had asked the other States to have patience. But several years had elapsed and the situation had not improved. The subject peoples were not the enemies of the colonizing countries. They desired merely to have relations with them, but they also wished to be master in their own house. It was useless to say that they were not ready for self-government. Other countries had recently become independent and had shown that they knew how to govern themselves.

15. The colonial Powers spoke of avoiding sudden change-overs, of moving by stages, and of following an evolutionary process. He wondered where evolution began and revolution ended. If bloodshed was a characteristic sign of revolution, the colonial Powers had to be told that blood was flowing because they were trying to hamper the normal advancement of awakened people who did not intend to be treated as minors. Algeria was regarded as a French department, although a vast expanse of ocean separated it from the metropolis. Out-of-date treaties, whose signatories had long been dead, were maintained in force in Tunisia and Morocco and each year the situation grew worse. During a recent journey in the Middle East he had had an opportunity of speaking to some Cypriotes who had told him of their keen desire for self-government. He had also seen some Algerians returning from a pilgrimage to Mecca who had lamented the fact that they did not even know Arabic. Algeria was treated as a French department and Algerians who demanded self-government were slaughtered. Those facts sufficed to show that article 1 of the draft covenants was necessary.

16. The representatives of certain colonial Powers had alleged that the defence of the "free world" required the maintenance of the existing system. Such a pretext could not be accepted. There had always been, and for a long time to come there would probably be, threats of war; certain countries had, however, managed to achieve independence.

17. The situation could never be improved if the idea was accepted that defence needs always had to be borne in mind. The true reasons behind colonialism were economic. If the covenants made it possible to restore economic equilibrium in the world, the colonial system would have no further justification. Bold decisions were required. Meanwhile, things were growing worse from year to year. Indonesia had recently submitted the question of West Irian (West New Guinea)¹ to the United Nations. That was another case to which article 1 of the draft covenants applied. The world would never enjoy true peace if the article was not adopted. The colonial Powers should bear that in mind. Even if they refused to sign the covenants because of that article, the subject peoples would still demand their independence. They were told to be patient, but patience required time and time was the essence of life. Each generation lived for itself. A people could not be satisfied with the vague hope of a questionable freedom for its children. The United Nations had to work for the improvement of the world of today. It was not a question of hastening events, or of granting self-government to all colonial territories from one day to the next. Some peoples, moreover, were not yet awakened to national consciousness. But action had to be taken where there were sure signs of such an awakening. The United Na-

tions had to settle the problem because no solution had been possible elsewhere.

18. The colonial Powers should understand the need for that policy and stop trying to control the fate of other peoples arbitrarily. If they took too long to become conscious of reality, the peoples of Morocco, Tunisia and Algeria, and still other territories, would free themselves by force in a few years time. Such terrible bloodshed had to be avoided. The colonial Powers had to listen to those who were demanding self-government. That way they would effectively contribute to world peace and to the advancement of mankind. He was not unaware of the fact that the peoples of the colonizing countries were not responsible for the existing situation. Even Governments were often full of good intentions. Unfortunately, however, powerful individual interests were working in the background in order to perpetuate a state of affairs which was detrimental to all mankind. The provisions of the proposed article were such that, even if they were regarded as a mere declaration of principle, they would suffice to expedite the advancement of subject peoples and to awaken public opinion in the colonizing countries. Whatever happened, the United Nations as a whole had to endeavour to carry out the principles set forth in article 1. Short-sighted opportunism in international politics had to be renounced, further bloodshed had to be avoided and satisfaction given to those who demanded freedom.

19. He reserved the right to speak again if proposals or amendments were submitted. He also reserved the right to submit amendments. He hoped that the arguments which he had just adduced had attracted the attention of the persons concerned. It was not, of course, the first time that he had expressed them, but it was sometimes useful to repeat certain things. A serious problem had arisen and had to be solved. It was useless to close one's eyes to facts which were only too true. Unpleasant objects did not disappear just because a veil was drawn over them.

20. Mr. NUSEZ (Costa Rica) restated his conviction that human rights were essential rights, inherent in the human person, which no Power or alliance of forces could infringe. They were indispensable to man in the fulfilment of his destiny and of the part he had to play in fulfilling the destiny of the community.

21. He wished to say a few words on the spirit which he thought should prevail during the general debate. When expressing their views on the various questions dealt with in the draft covenants, delegations should refrain from alluding to past events, so as not to rouse national susceptibilities and lead some countries to interpret affirmations of principle as accusations against them. The past should be forgotten. It was true that all countries had something to reproach themselves with, but such reproaches would not serve any purpose. The Committee's task was not to write history but to lay the foundations of a better world.

22. The Committee had before it two draft covenants, one on economic, social and cultural rights and the other on civil and political rights. The artificial distinction drawn between those two kinds of rights was regrettable. All of them were based on the dignity of the individual and that dignity was an indivisible whole. Freedom was inconceivable without justice and vice versa. On behalf of his Government, he therefore wished to protest against the separation of the two kinds of rights. Nevertheless, the Costa Rican delegation was

¹ Item 61 of the agenda of the General Assembly.

not asking the Committee to reconsider a decision already taken, its aim being to contribute as far as possible to facilitating the acceptance of the draft covenants.

23. With regard to the question of the right of property, the Uruguayan representative had submitted a motion to adjourn *sine die* consideration of the question of the inclusion of an article on the right of property in the draft covenant on economic, social and cultural rights. The Costa Rican delegation had always pressed, and still pressed, for the inclusion of a clear and precise article on the right of property in that covenant. The United Nations had already succeeded in having new ideas accepted for certain juridical concepts, formerly regarded as unalterable. There were other fields where it could still develop traditional concepts for the greater good of mankind. The right of property was not a simple juridical concept, but rather an ontological problem concerning the relationship between the individual and the goods put at his disposal in order to enable him to fulfil his destiny. The United Nations should take that factor into account to the fullest extent compatible with the fundamental needs of the individual.

24. In the middle of the twentieth century, it could hardly be affirmed that the private property system was absolutely unalterable. Owing to its continual evolution, the world was inevitably led to view the concept of private property from a new angle and to take into account certain aspects which had been neglected in the past. It was desirable to consider not only the individual and private aspect, but also the social and public aspect. Man had obtained the right to private property from nature, and consequently from the Creator, for two purposes: in the first place, in order to enable him to provide for his own needs and those of his dependants and, secondly, in order that the natural resources of the world might be properly used for the benefit of mankind as a whole.

25. In the light of those considerations, the Costa Rican delegation wished to reaffirm the right of private property and its social character. Furthermore, it wished to emphasize that, in view of its social character, private property should be made to serve the common weal; by serving the common weal was meant the creation of living conditions which would enable man to develop fully in the exercise of his rights and the discharge of his duties and such a distribution of the product of economic activity as would ensure everyone as high a standard of living as possible, having regard to the level of economic development in each country. That principle implied certain restrictions on the right of property; an excessive concentration of goods should be

avoided so that individual rights would not be exercised at the expense of the community. The Costa Rican delegation therefore considered that an article on the right of private property should be inserted in the draft covenants. The article should define the right carefully and leave no doubt as to its social role; in certain cases, therefore, expropriation should be authorized subject to fair compensation.

26. As regards the right of petition, the Costa Rican delegation thought it essential that the individual should be able to appeal against abuses of power on the part of the Government. It thought, however, that the individual could most effectively protect his rights by joining an association. The United Nations should therefore recognize the right of certain national associations to submit petitions to it on behalf of their members. The reasons for suggesting that method rather than individual petitions were purely practical.

27. With regard to the question of federal States, the Costa Rican delegation fully approved of the draft article proposed by Australia and India and amended by Belgium and France (E/2573, paras. 246 to 248). It hoped that the federal States would be able to accept that compromise and that, thanks to it, all their constituent units would shortly be able to adopt all the provisions of the covenant. He wished to take the opportunity of stating that his country had particularly welcomed the recent decision of the United States Supreme Court in favour of a large racial group.

28. With regard to the question of reservations to the draft covenant on civil and political rights, the only reservations admitted should be those compatible with the aims and objects of the covenants. They should refer solely to the third part of the covenant and they should be accepted by two-thirds of the States parties to the covenant.

29. With regard to respect for and observance of the provisions of the covenant on civil and political rights, the Costa Rican delegation enthusiastically supported the Uruguayan proposal (E/2573, annex III), which fully dispelled the misgivings of some delegations about the application of that instrument. It was the duty of the States Members of the United Nations to rise above national considerations and, if necessary, to sacrifice part of their sovereignty when the good of mankind required it.

30. Finally, the Costa Rican delegation was entirely convinced of the right of peoples to self-determination but considered that that question should form the subject of a separate instrument.

The meeting rose at 1.10 p.m.