



CONTENTS

	Page
Agenda item 58: Draft international covenants on human rights (continued) 139	139

Chairman: Mr. Jiř NOSEK (Czechoslovakia).

In the absence of the Chairman, Mr. Núñez (Costa Rica), Vice-Chairman, took the Chair.

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. ABDEL GHANI (Egypt) recalled that the Egyptian delegation had taken an active part in the preparation of the draft covenants on human rights (E/2573, annex I) and pointed out that, at the suggestion of one of its members, Mr. Azmi, Chairman of the Commission on Human Rights, the Commission entrusted with the drafting of the new Egyptian Constitution had been guided by those two documents in its work.

2. The new Egyptian Constitution, which was based on the principle that true individual freedom could not exist without economic security and social development would therefore be concerned not only with the political rights of men, as in the past, but also with the political rights of women and the economic, social and cultural rights of the whole population. Egypt would thus go a step further than the countries which had based their constitution on the Universal Declaration of Human Rights.

3. The Egyptian delegation was still in favour of a single covenant. In adopting resolution 543 (VI), the General Assembly had set a dangerous precedent, as the current debate had brought out. If really necessary, two covenants might be acceptable if the signatory States were to accede to and ratify them simultaneously, but that was not the case. In that connexion, several delegations had held that a two-thirds majority would be required to reverse the decision taken in 1952; rule 124 of the rules of procedure, however, referred only to motions for reconsideration of proposals at the same session; moreover, the resolution in question itself amended a previous decision, but had, nevertheless, been adopted by a simple majority. Furthermore, it could be argued that the decision invoked consisted of instructions given to the Commission on Human

Rights through the Economic and Social Council. Those directives had served their purpose; they no longer had any effect and were in no way binding on the Third Committee, which was examining the whole question anew.

4. Resolution 545 (VI) of the General Assembly was of paramount importance. The Egyptian delegation could not accept the argument that the right of self-determination was a collective right which did not fit into the draft covenants. Without wishing to restate the relevant opinions of many jurists and statesmen, he would point out that the right of peoples to self-determination was implemented in practice by means of elections and plebiscites through which the individual expressed his wishes. In the final analysis, it was the individual who exercised the right, even though the result affected his community; almost every human right, incidentally, had those two aspects. Egypt was therefore in favour of retaining article 1, which was common to both draft covenants, as it stood.

5. Article 48 of the draft covenant on civil and political rights deserved detailed consideration. In proposing it to the Commission on Human Rights, the Egyptian delegation had observed that the provisions of paragraph 1 coincided with the general policy consistently pursued by the United Nations in respect of the Non-Self-Governing Territories. It should be noted that the human rights committee, to which the proposed reports would be submitted, would be a neutral and impartial organ whose members, selected by the International Court of Justice on the basis of their personal competence and high moral standards, would not in any way misuse the information collected. In addition, the proposed provisions would not apply only to the Non-Self-Governing Territories, but to all countries, including those which had been invaded or subjugated by alien Powers. Those two observations also applied to paragraph 3 of article 48. The United Kingdom representative had said he considered paragraph 2 the most objectionable part of the article. He (Mr. Abdel Ghani) pointed out that the text was based on the Agreement of February 1953 between Egypt and the United Kingdom on the Sudan. The methods recommended had been very successfully applied in the Sudan; that was why the Egyptian delegation had proposed the existing text of paragraph 2. The Belgian representative had said that to grant the right of self-determination to certain primitive groups would lead to chaos; in fact, paragraph 2 specifically stated that there had to be political institutions or parties testifying to the maturity of the peoples concerned.

6. With regard to the federal clause, he said that federal States should not be able to assume fewer obligations than the other States parties to the covenants. Nevertheless, some of the federal States were strongly opposed to that clause since, according to their

representatives, it did not meet their constitutional difficulties. A compromise was called for, as long as fundamental rights and freedoms were not prejudiced thereby and the decisions of the majority of the General Assembly, in particular concerning the territorial application of the covenants, were respected. Egypt had therefore submitted to the Commission on Human Rights a draft resolution which had been rejected owing to a tied vote (E/2573, para. 258). The proposed decision would solve the difficulty by allowing the federal States to observe their own constitutional processes with regard to signature and ratification; it would be a compromise between the existing text of the clause and the text suggested by Australia.

7. The absence of an appropriate procedure for the consideration of individual petitions had greatly hindered the United Nations in all its work in the field of human rights. The individual was the victim of any violation of those rights and he should be entitled to complain and obtain redress. Article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms recognized the right of individuals and non-governmental organizations to submit petitions. Moreover, experience has proved the absurdity of the system which reserved the right of petition to States. In over thirty-five years, the International Labour Organisation had not received a single complaint from a Government, whereas various employers' and employee organizations had frequently applied to it. It was natural that States which were on friendly terms should be reluctant to complain about each other. It was also something of a paradox that nearly all the delegations which objected to the right of individual petition were those which were opposed to article 1 of both draft covenants on the ground that it concerned a collective right; it would appear that the argument changed according to circumstances. The Egyptian delegation reserved the right to raise the question of individual petitions again at a later stage in the debate. To eliminate complaints likely to create international difficulties or to encourage malicious propaganda campaigns, the following provisions might be considered: first, the petitions should be addressed through a national organization legally established in the country of the petitioner; secondly, the petitioner should prove that he had applied to his national authorities and had had recourse to all the means of redress open to him under his national legislation; thirdly, in order to be examined at the international level, each petition should be sponsored by at least one non-governmental organization recognized by the United Nations.

8. Several delegations had affirmed that some particular clause of the drafts would impose on their Governments obligations which they could not fulfil; in the aggregate, the examples mentioned covered a large area of the proposed articles. If those reservations were admitted, the covenants would be narrower in scope than any existing constitution. The Commission on Human Rights had given due consideration to the problem of the obligations imposed on States; it was for that reason that it had emphasized the progressive nature of the economic, social and cultural rights and had, in time of public emergency, provided for derogations from most civil and political rights. It was not possible to go further without irreparably weakening the scope of the covenants.

9. Those general considerations explained the position of Egypt on some of the main points in the two drafts. It was the United Nations task to draw up covenants to give legal definition to the principles proclaimed in the Universal Declaration of Human Rights. Although the United Nations had decided, as far back as 1947, to carry out that task, little had been done to prepare world public opinion for the covenants. The publicity so far given to human rights had referred solely to the Declaration. The fate of the covenants largely depended upon how they would be received by public opinion; the United Nations Secretariat and, in particular, the Department of Social Affairs and the Department of Public Information, the specialized agencies and the non-governmental organizations should do their utmost to win the support of all the peoples of the world for those instruments. The Chinese representative, seconded by the Australian representative, had suggested that a conference of plenipotentiaries should be held to complete the work on the covenants and open them for signature. Citing the unhappy example of the Convention on Freedom of Information which remained a dead letter, he warned against hastening to convene a conference of plenipotentiaries before world public opinion had been won over to the cause of the covenants.

10. Miss AMMUNDSEN (Denmark) said that she would indicate her delegation's general attitude with regard to each of the two draft covenants on human rights (E/2573, annex 1), adding comments on certain aspects which had particularly attracted its attention.

11. Her Government attached great value to every effort made to further international co-operation in the economic, social and cultural fields. Her country, whose level of development corresponded largely to that which the first covenant sought to achieve, and which had contributed its share in the work of the specialized agencies that were striving for the same ends, was the more qualified on that account to express some doubt as to the real usefulness of the draft covenant on economic, social and cultural rights. In its opinion, States should devote all their energies in that field to tasks connected with the work already begun. The provisions of articles 17 to 25 might have a disturbing effect on the work done by the specialized agencies and bring about a dispersion of energy. Her Government did not underestimate the significance of declarations of principle, but there already existed a Universal Declaration of Human Rights, to which the proposed draft added nothing essential.

12. As regards the draft covenant on civil and political rights, her country, which had ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms, was willing to assume similar obligations within the framework of the United Nations. While the covenant need not be identical with the text drafted under the auspices of the Council of Europe, her delegation regretted that the draft prepared by the Commission on Human Rights contained no provisions on the right of petition. It was a question not merely of enabling States to make complaints against one another, but also of enabling an individual to protest against a Government that had encroached upon his rights. The European convention contained a facultative clause to that effect; that example might usefully be followed.

13. Her Government doubted the appropriateness of article 1, which was common to both draft covenants. It had no objections in principle to a provision aimed at codifying the right of self-determination, but it was sceptical as to the value of a declaration of as vague a character as that proposed. It was sufficiently clear from the Charter that the United Nations would always endeavour to further self-determination; it did not seem necessary to repeat that principle in the form of an obligation imposed on every State.

14. Her delegation reserved the right to speak again at a later stage, when the Committee undertook detailed consideration of the draft covenants.

15. Mr. ALTMAN (Poland) said that in his delegation's view the two draft covenants submitted by the Commission on Human Rights could serve as the basis for a very helpful discussion. They contained many truly progressive provisions designed to ensure respect for the principles enunciated in the United Nations Charter in the matter of human rights.

16. His country, whose Constitution guaranteed political, civil, economic, social and cultural rights for all citizens, noted with particular satisfaction the inclusion in the drafts of provisions on the right to work and to just and favourable conditions of work, the right to the protection of health, and to education, the right to take part in the conduct of public affairs, the complete equality of men and women with regard to political and civil rights, the right to equal pay for work, the right to security of person and home, to justice and to freedom of thought, conscience and expression. His delegation attached particular importance to articles 24 and 25 of the draft covenant on civil and political rights. It also welcomed the provisions of article 26, but thought that others should be added to them prohibiting the exercise of the rights set forth in the covenant for purposes contrary to the principle of international co-operation founded on mutual respect for the sovereign rights of States. It should be stipulated in article 19 of that draft that no one might exercise his right of freedom of expression in defiance of the principles of the United Nations, especially to engage in war propaganda, to arouse hostility between the nations, to encourage racial discrimination or to spread false information likely to jeopardize international co-operation.

17. His delegation approved of article 1 of the two drafts, which in its view was of paramount importance because the right of peoples to self-determination was the essential condition for the exercise of all the other rights proclaimed in the draft covenants. Some delegations had objected that that right was a collective one and that the draft covenant was concerned with the rights of individuals. That argument was unconvincing. The right of peoples to self-determination was based on the principle of the equality of all nations and meant that every country was the master of its own fate; it applied both to the individuals that formed the national community and to that community as a whole. There were many examples to show that when a country was not the master of its own destiny its citizens were likewise unable to exercise their fundamental rights and freedoms. Like the representatives of Saudi Arabia, Burma and India, he was in favour of the retention of that article. He also endorsed the Yugoslav representative's remarks on the subject (568th meeting).

Unlike the French delegation, he did not think that a substantive article should be omitted on account of the implementation procedure and that essential principles should thereby be sacrificed to technical considerations. The objections raised by the United States representative had merely confirmed the Polish delegation in its view that it was necessary to retain article 1 in the draft covenants.

18. Many reservations had also been made concerning the article relating to federal States, which was common to both drafts. His country had always opposed the inclusion in the covenants of a federal clause which would provide a loophole for federal States. The provisions of the covenants should be fully applicable in all the territories of the contracting States, whether federal or not. His delegation approved of the article in question as it stood. It believed that the fundamental principle of universality took on its full value in the case of the application of the covenants and that any exception in favour of federal States would be contrary to the provisions of the Charter. The article in question, as it stood, met the wishes expressed by the majority of delegations at the eighth session of the General Assembly and corresponded to the principles and practice of international law; together with the clause which had been called the territorial application clause and which was also common to both drafts, it guaranteed universality in the application of the covenants.

19. He recalled that there were still some questions on which the Commission on Human Rights had been unable to reach a decision, more particularly the right of asylum and the right to own property. The absence of any provision on those subjects was a serious omission. His delegation shared the views on the right of asylum expressed by the representatives of the USSR, France and Czechoslovakia. The right of asylum should be granted to persons persecuted for their activities in defence of democratic principles, for their participation in the struggle for national liberation, or for their scientific work. As regards the right to own property, his delegation considered that the discussion on the subject that had taken place in the Commission on Human Rights and the proposal submitted by the Polish representative in that Commission might serve as a basis for the drafting of an article on the question, it being understood that the social and economic developments which had taken place in the twentieth century would be taken into consideration.

20. The Polish delegation felt that article 8 of the draft covenant on economic, social and cultural rights should be supplemented in such a way as to guarantee to trade-union organizations complete freedom of action in the attainment of their objectives, that freedom being indispensable if respect for the essential economic rights was to be ensured.

21. He wished to make some comments on the question of implementation. Because of their legal nature, the draft covenants should define the obligations of contracting States with a maximum of precision. Some of the articles did not meet that requirement, while others did. Article 2, paragraph 1, of the draft covenant on economic, social and cultural rights and article 2, paragraphs 2 and 3, of the draft covenant on civil and political rights were designed, by the very clear obligations they imposed on contracting States,

to ensure observance of the rights set forth in the covenants.

22. The principle *pacta sunt servanda* was essential to the execution of international agreements; therefore the most effective method of implementation was the inclusion in such instruments of provisions clearly defining the means of safeguarding the rights recognized. His delegation was not opposed in principle to international measures, always provided that such measures did not depart from the Charter of the United Nations and were in conformity with international practice. It appeared that the whole implementation procedure laid down in the draft covenants did not meet those requirements and that in particular it was contrary to the Charter. Such a procedure could only promote disputes between States and could in no way ensure observance of the rights set forth in the covenants. On the one hand, by allowing intervention in matters strictly within the domestic jurisdiction of States, they rendered disputes inevitable and on the other hand, a procedure contrary to the Charter, especially to Article 2, paragraph 7, would make the very conception of human rights illusory. It was for Governments to ensure observance of the rights in the most effective manner. The question of implementation should therefore be more thoroughly discussed.

23. He also drew the Committee's attention to the reservations and the fears expressed by some delegations, particularly those of Brazil and Argentina, with regard to the part to be played by the proposed human rights committee.

24. Finally, his delegation has always been in favour of a single covenant, including civil, economic, social and cultural rights.

25. He hoped that a detailed consideration of the draft covenants would enable the Third Committee to make them capable of ensuring effective observance of fundamental human rights and his delegation was ready to lend its full co-operation to that end.

26. Mrs. ROSSEL (Sweden) expressed appreciation of the fact that the Third Committee had the drafts of the covenants on human rights before it. They contained very varied provisions and had a very wide scope. Some representatives had expressed the opinion that the Committee should come to a decision very soon; the Swedish delegation thought that the Committee was only then entering the stage of the final drafting and that it would be a grave mistake to press for an immediate adoption of the covenants either that year or the next. If they were adopted in an unsatisfactory form, very few States would be able to sign and ratify them with a view to the full implementation of all the articles; the United Nations had the responsibility of presenting to the world instruments which would provide an effective guarantee of human rights.

27. With regard to the question of having one covenant or two, the Swedish delegation felt that the draft covenants as they stood established beyond any doubt that it would have been impossible to include all their various provisions in one single text.

28. With regard to the question of reservations, her delegation, like others, felt that it should be taken up and decided before a detailed examination of the separate articles of the draft covenants.

29. With regard to article 1, which was common to both draft covenants, her country had frequently stated

that under the United Nations Charter it was incumbent on Member States to let themselves be guided by the important principle of self-determination of peoples. It had been useful to study and try to define the principle in the light of current world conditions, but an article of that kind should not be included in the draft covenants. She feared that, in connexion with implementation, it would give rise to serious problems both of a political and of a practical nature; furthermore, paragraph 3 concerned an entirely different matter from the rest of the article and should not be included in it.

30. The Swedish delegation would be able to accept the other provisions of the draft covenants with certain reservations. She would make a few comments on the texts, beginning with the draft covenant on economic, social and cultural rights. The provisions of that covenant could be applied only gradually and her delegation appreciated that that fact had been clearly stated in article 2, paragraph 1. She also thought that it was good to have all grounds of discrimination listed together in one paragraph, as had been done in article 2, paragraph 2. That made them applicable to the whole field covered by the covenant and made it unnecessary to repeat them in every single article. No specific reference was made in that paragraph to matrimonial status, however; legislation in many countries discriminated against married women, for instance by barring them from posts in the administration. Her delegation did not intend to propose an addition, since it took it that such cases were covered by the phrase "other status", but she wanted its position to be put on record. Such an interpretation of the phrase would make the article conform to the provisions of article III of the Convention on the Political Rights of Women (General Assembly resolution 640 (VII), annex), which Sweden had ratified.

31. Article 3 of the draft covenants was superfluous, since it was a partial repetition of what had already been said in article 2, paragraph 2.

32. With regard to article 6, her delegation, like that of the United Kingdom, thought that paragraph 1 was not precise enough; it was more a general declaration of principles than a provision forming part of a legal document.

33. She was in favour of the general terms of article 7; it included a very important provision on equal pay for work of equal value, which had already formed the subject of a convention concluded under the auspices of the International Labour Organisation. She thought, however, that sub-paragraph (b) (i) should be drastically changed since, as it stood, it repeated the provisions of article 2, paragraph 2. As she had already said, the general non-discrimination clause in that article made it completely unnecessary to include provisions against discrimination in any other article of the covenant; to make provisions against discrimination relating only to one or a few rights might lead to dangerous conclusions. Her delegation would prefer article 7, sub-paragraph (b) (i) to read simply: "Fair wages and equal remuneration for work of equal value"; the rest of the sub-paragraph might be deleted. As she had already pointed out, both in the Commission on Human Rights and in the Third Committee, the reason for her delegation's opposition to a specific provision against discrimination between men

and women was that it was anxious to see such an important principle logically applied. In that connexion, she wished to add a consideration which carried particular weight: she did not see who would have the authority to decide the exact meaning of the phrase "work of equal value". The Swedish delegation thought that in the draft covenant it was desirable merely to state the principle of equal pay for work of equal value in general terms and leave it to the ILO to go into the details. The Swedish Government, like a number of others, thought that problems of pay should be settled by negotiations between the parties concerned, and it did not consider itself in a position to interfere. What governments could and should do, however, was to set an example with their own employees.

34. With regard to article 10, the Swedish delegation thought that that too could only state a general principle in support of the more detailed provisions in the maternity convention of the ILO, which already covered the ground. Paragraph 1 of the article should be changed to read:

"Special protection should be accorded to maternity during reasonable periods before and after childbirth."

Like some other delegations, she found the word "motherhood" lacking in precision and liable to be so interpreted as to give rise to what had been termed over-protection. The right to social security covered by the provisions of article 9 and applicable to "everyone" naturally applied to both mothers and children.

35. Articles 11 and 12 could be merged.

36. She had no objection to article 15, provided that the countries concerned felt that they were able to support it.

37. In the draft covenant on civil and political rights, article 6 assumed that capital punishment would be maintained in some countries. It was very regrettable that a covenant on human rights should thus in a way sanction capital punishment, not only in time of war or other public emergency, but as a penalty applicable at any time. In view of the fact that many nations still maintained the death penalty she did not find it possible to propose any amendment to the article, but she felt bound to express the opinion that the covenant would have been more in conformity with the high ideals of the Universal Declaration of Human Rights if any mention of capital punishment in that article had been omitted. For the same reason she would have preferred the deletion of the word "arbitrarily" from paragraph 1.

38. Article 14 provided that "any judgment rendered in a criminal case or in a suit at law shall be pronounced publicly except where the interest of juveniles otherwise requires or the proceedings concern the guardianship of children". Under Swedish law, however, a judgment could be rendered secretly (and the contents of the verdict be kept secret) in the same way that a court hearing could be secret. Court hearings could be secret in several circumstances other than those mentioned in article 14.

39. The principles endorsed in article 15, paragraph 1, were generally followed in Swedish law. With regard to the last sentence of that paragraph, however, it should be noted that, in cases where a certain act was punishable because of special circumstances (war, the

danger of war etc.), the act was judged according to the law in force when the act was committed, even if the liability to penalty had later been rescinded because of changed circumstances.

40. Her delegation noted with regret that article 19, paragraph 3, contained no provision prohibiting censorship of material in advance of publication. She pointed out that the Swedish Freedom of the Press Act included a provision against such censorship.

41. The wording of article 22, paragraph 4, was not satisfactory. The equality of spouses should be recognized by the signatory States not progressively, but from the time of ratification of the covenant, like the other civil and political rights. At its eighth session the Commission on the Status of Women had prepared a draft resolution for submission to the Economic and Social Council, in which it was stated,

"Men and women shall have equal rights and responsibilities as to marriage, during marriage and at its dissolution."<sup>1</sup>

That text should replace the text in the draft covenant. Countries which desired to stress the equality of men and women, which did not regard the provisions of article 2, paragraph 2, as adequate and which advocated the retention of article 3, had an excellent opportunity to show their devotion to the principle under consideration by supporting the text prepared by the Commission on the Status of Women. In proposing that change she assumed that adequate provision would be made in the draft to enable States which could not accede immediately to the article to make the desired reservations. It was true that at the ninth session of the Commission on Human Rights her delegation had voted in favour of the present wording of article 22, paragraph 4; but it had done so in order to have an important principle registered in the covenant, since it had been obvious that the wording it would have preferred had no chance of being adopted.

42. Part IV of the draft covenant, which provided for the establishment of a human rights committee responsible for the implementation of the covenants had—with one very important exception—her delegation's approval. It should be noted, however, that the Commission had not yet examined the Uruguayan proposal to establish an Office of the United Nations High Commissioner for Human Rights (E/2573, annex III). The Swedish delegation's objections to part IV concerned the provisions of article 40. The powers which that article would confer on the human rights committee were far too limited to make it possible for the committee to function properly, since it would adjudicate only complaints made by States. It should also be empowered to hear and act upon complaints presented by individuals or group of individuals. As the aim of the covenant was the protection of individual rights, her delegation believed that the failure to grant the committee such competence would seriously hamper implementation of the covenant.

43. Princess SULTAN (Pakistan) associated herself with the other representatives who had expressed their appreciation of the progress achieved by the Commission on Human Rights. As Pakistan was represented both on the Commission on Human Rights and on

<sup>1</sup> See *Official Records of the Economic and Social Council, Eighteenth Session, Supplement No. 6, annex 2, draft resolution G.*

the Economic and Social Council it had had an opportunity to express its views on the draft covenants and declare its support of the principles embodied therein. The advantages or disadvantages of those instruments and the difficulties that their implementation might entail would only be fully realized after they had been put into practice. Provision should therefore be made for periodic reconsideration and amendments.

44. Her Government was also in favour of incorporating a clause concerning reservations. For example, non-interference with religious beliefs and practices should be guaranteed; with that aim in mind, Pakistan would like to be able, by means of reservations, to ensure that no law incompatible with any particular religion would be imposed upon its 80 million inhabitants. A reservations clause was essential in order to speed the adoption of the draft covenants.

45. Her delegation would vote in favour of article 18 of the draft covenant on civil and political rights, which it found entirely satisfactory as it stood. Notwithstanding the apprehensions expressed by the Saudi Arabian and Afghan representatives, she found that text in complete conformity with the teachings of the Koran. There was no compulsion in Islam, and it unequivocally condemned hypocrisy. It was difficult to see how any human being could have sufficient authority to justify his pronouncing judgments on the faiths and beliefs of others. For a Moslem, the sole judge of all such matters was God. She appealed to the Saudi Arabian and Afghan representatives not to question the views expressed by the Pakistan delegation, particularly in a Committee where 85 per cent of the members were not Moslems.

46. Article 1 of the draft covenants, which referred to the right of self-determination, should be given careful consideration. Any delay in the settlement of that question might endanger the maintenance of world peace.

47. With regard to article 22 of the draft covenant on civil and political rights, the Commission on the Status of Women had proposed a different wording for the first sentence of paragraph 4. In resolution 547 G (XVIII), the Economic and Social Council had decided to transmit the proposal to the General Assembly without comment. In Pakistan, marriage was governed by certain religious laws. The amendment proposed by the Commission on the Status of Women—to which the Swedish representative had already referred—would conflict with those laws. Islam, the religion of the majority of the people of Pakistan, guaranteed almost equal rights to men and women, but there were distinctions corresponding to the difference in the responsibilities of the spouses. The Moslem woman was free in the choice of her husband. She had an adequate share of property which she inherited from her parents, in addition to the *mahr* guaranteed by her husband. She was not obliged to contribute to the maintenance of the family. While the husband had the right to divorce, the wife was also entitled to *khula*. None of those provisions was in conflict with the laws of the Koran or the Sunna. Article 22, while giving complete equality to the spouses, would perhaps deprive Moslems, both men and women, of their respective advantages granted by Islam. She saw no objection, from the woman's point of view, to the privileges that men

enjoyed under Islam, and Moslem women were in no way victimized by the law of the Koran; it was their indifference and their ignorance of that law that had enabled men to abuse their rights.

48. Mr. DUNLOP (New Zealand) thought that the debates which had taken place had enabled representatives to achieve a better intellectual understanding of the different systems and practices in the various countries. There would be no point in going on with the work unless there was some hope of agreeing on texts which a substantial number of countries would feel able to ratify. The task was a difficult one and could not be accomplished quickly. The peoples of the world might be anxious to see the results, but the primary objective was to draw up instruments that could be applied, and not simply propaganda documents or even a new declaration. That goal could be attained only if all the delegations acted in complete sincerity and in a spirit of mutual trust.

49. Most of the substantive articles of the draft covenant on civil and political rights (E/2573, annex I) were generally acceptable to his delegation, but several articles in the draft covenant on economic, social and cultural rights (E/2573, annex I) would prevent it from voting for adoption of that covenant. As his Government had not yet been able to complete its consultations on the drafts, he could only indicate tentative views on a number of important points.

50. The International Law Commission had recommended that the European practice should be followed in cases where no specific provision for reservations was included in a treaty: that is, a State that made a reservation would be prevented from becoming a party to the treaty if any State objected to the reservation. It remained to be seen whether all countries would agree to accept that procedure. The covenants or a protocol of signature should therefore contain provisions on reservations in order to avoid the confusion which had arisen in connexion with the Convention on the Prevention and Punishment of the Crime of Genocide. The drafts before the Committee were not confined to a statement of fundamental rights. They dealt with matters of detail and it was understandable that States should wish to make reservations on specific points. Similarly, some broad statements of fundamental rights were acceptable but could be interpreted as excluding administrative practices in themselves perfectly reasonable. Every State would probably find some provision which was not acceptable, and States should not be deterred from ratifying the covenants merely because of practical difficulties which the General Assembly might not even have considered. Some representatives felt that a provision enabling States to qualify their acceptance could be at variance with the essential purposes of the covenants. Some of the articles already provided only minimum guarantees. A general right of reservation could render the covenants nugatory. The object of some of the proposals in annex II to the report of the Human Rights Commission (E/2573) was to give only a limited right to make reservations, but it was doubtful whether the limitations would be effective in practice.

51. The question of reservations was a fundamental problem, which should be solved before detailed consideration of the substantive articles. His delegation was inclined to favour the drafting of a protocol of

signature, setting forth the reservations which each State wished to make and which other States were prepared to accept. Such a solution had at least the advantage that whoever drafted the protocol would have to overcome practical difficulties as they arose. The draft covenant on civil and political rights might be effective if the right to make reservations was limited in accordance with the United Kingdom proposal (E/2573, para. 26), but that method did not have the dynamic quality of a separate protocol.

52. His delegation was in general agreement with the view of the French and the United Kingdom representatives that the draft covenant on civil and political rights should be made binding immediately on its signature and ratification.

53. It was inclined to support the proposal made by the Commission on the Status of Women on article 22 of the draft covenant on civil and political rights, but would not insist on its inclusion if the adoption of such an amendment made it impossible for a number of States to sign the covenant. His delegation had no strong objection to the reporting procedure suggested in article 49 of the draft covenant on civil and political rights.

54. The implementation measures in articles 27 to 48 of that draft covenant presented many difficulties. Article 48 was unacceptable for practical and constitutional reasons. Conditions in the dependent territories varied considerably and measures that might be appropriate in one territory at any time might be inappropriate in another. It was for the Administering Authorities, and for them alone, to decide what measures should be taken. Their obligations were declared in Articles 73 and 74 of the United Nations Charter. Article 48 was neither necessary nor useful in the covenant.

55. The procedure of the human rights committee would depend on the judgment and independence of its members. Although it seemed appropriate that they should be nationals of the signatory States it was doubtful whether the International Court of Justice should be asked to elect them from among those nominated by States. The Court was a judicial body. The committee's work would certainly have a political element, and there might be some pressure on Members of the Court to support candidates acceptable to certain Governments. The Court would be entitled to refuse to perform such a function, which was clearly of a political character. If article 1, the provisions of which were considered purely political by a number of countries, were retained in the covenant as well as article 48, the committee's quasi-judicial standing would be seriously prejudiced.

56. The committee would receive complaints only from States. His delegation was not opposed in principle to some extension of the system for complaints, but, as the problem was extremely delicate, it should be deferred until the examination of the other parts of the draft covenants had been completed.

57. Articles 17 to 24 of the draft covenant on economic, social and cultural rights were generally acceptable to New Zealand but he reserved the right to make more detailed comments on them later.

58. His delegation thought that it would be possible to draft a suitable clause to overcome the special diffi-

culties of federal States and ensure that they should secure the co-operation of their constituent members as soon as possible.

59. New Zealand would find it very difficult to sign or ratify the covenants if they included article 1, which was common to both drafts, article 53 of the draft covenant on civil and political rights and article 28 of the draft covenant on economic, social and cultural rights. The territorial application clause did not take sufficient account of the realities of the position in the dependent territories and was discriminatory. Self-determination was to be pursued as one of the fundamental principles of the Charter. It was not a right in the same sense as the rights of individuals defined in other articles of the covenants, and it should not be mentioned in them. If the rights of individuals were the subject of covenants which States could accept and if the implementation clauses allowed for the gradual development of the dependent peoples towards the full enjoyment of those rights, those peoples would make progress towards self-government in the manner envisaged in the Charter and would become able to bear their share of the burden of preserving the basic principles laid down in the Charter. That was equally true of the large minorities and in some cases backward minorities in many Member States. When the right of secession had been discussed, several of those States had invoked Article 2, paragraph 7, of the Charter. It was agreed that reservations would not be permitted on matters of principle and it seemed that those States would find it difficult to ratify the covenants if article 1 were included. The retention of article 1 might drastically reduce the number of States parties to the covenants.

60. It was the purpose of the Third Committee to ensure the enforcement of the rights defined in the covenants in all parts of the world as soon as possible. That purpose would be defeated if the Committee did not take into account the existing relations between federal Governments and their constituent states or the relations between administering Powers and the people who did not yet exercise their full sovereignty.

61. The CHAIRMAN having, with the Committee's approval, accorded the right of reply, as provided in rule 116 of the rules of procedure, Mr. PAZHWAQ (Afghanistan) said that at a previous meeting, when he had referred to the Pakistan delegation's comments on article 18 of the draft covenant on civil and political rights, he had not expressed an opinion on any particular concept. He had merely confirmed that there was no element of compulsion in the Moslem religion. Neither had he spoken of the alleged differences of opinion between Moslems. He had simply wanted to hear the Pakistan delegation's views. Princess Sultan had stated that her delegation was able to endorse article 18 as it stood and that was all he had wanted to know.

62. Mr. BARODY (Saudi Arabia) said that his criticism of article 18 had no connexion with the differences of opinion between Moslems about the interpretation of koranic law. Since 1948 he had been pointing out that there was a dangerous lack of balance in the wording of article 18, in which freedom of religion was unduly emphasized and freedom of thought and freedom of conscience were neglected. He pressed for a satisfactory explanation on the subject and would not be content with a repetition of the statement that

it was a matter of tolerance. In some Moslem countries Islam actually determined the inhabitants' way of life and koranic law was the equivalent of a constitution; that was why he felt obliged to ask why people were pressing for the inclusion of an article which would permit anybody to interfere in the domestic affairs of Moslem States.

63. Mr. PINTO (Chile) expressed regret that the examination of the draft covenants had given rise to religious polemics. They were holding up the completion of the Committee's work and millions of people throughout the world were impatiently waiting for its results. He reserved the right to revert to the question

The meeting rose at 6 p.m.