



CONTENTS

	<i>Page</i>
Agenda item 58: Draft international covenants on human rights (continued)	153

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. Ato Addimou TESEMMA (Ethiopia) recalled that his Government had always supported the work of the Commission on Human Rights and that it had been among the first to sign the Convention on the Political Rights of Women (General Assembly resolution 640 (VII), annex).

2. His delegation approved of article 27 of the draft covenant on civil and political rights (E/2573, annex 1) but, for the reasons already set forth by other members of the Committee, it reserved the right to revert later to the proposed system for the submission of reports. It approved of the wording of articles 27 and 28 of the draft covenant on economic, social and cultural rights (E/2573, annex 1) and articles 52 and 53 of the draft covenant on civil and political rights. It also believed that the Committee should consider the question of reservations before proceeding to the discussion of the draft covenants article by article. The United Kingdom proposals on that subject were constructive, and when they were discussed his delegation would be able to define its position.

3. Mrs. MARZUKI (Indonesia) praised the work that the Commission on Human Rights had accomplished with a view to giving legal force to the moral obligations proclaimed in the Charter of the United Nations and the Universal Declaration of Human Rights.

4. Several delegations had drawn attention to the fact that articles 1, 27 and 28 of the draft covenant on economic, social and cultural rights and articles 1, 52 and 53 of the draft covenant on civil and political rights had been adopted by a very slight majority. She pointed out that the General Assembly decision to prepare two separate draft covenants (resolution 543 (VI)) had also been adopted by a very slight majority. Her delegation considered that all human rights should be embodied in a single covenant, but she would not dwell on that question, which had already been discussed on numerous occasions and had been settled by General Assembly resolution 543 (VI).

5. Her delegation fully endorsed article 1, the inclusion of which in the draft covenants was consistent with the provisions of General Assembly resolution 545 (VI). Full enjoyment of the rights enumerated in the two draft covenants would be ensured only if the right of peoples to self-determination was respected. In the same way, the inclusion of article 28 in the draft covenant on economic, social and cultural rights and article 53 in the draft covenant on civil and political rights was consonant with General Assembly resolution 422 (V). It should be borne in mind that if the peoples of the Non-Self-Governing Territories continued to play an insignificant part in the political and social life of their territories and if their interests were served only in so far as they coincided with those of the administering Powers, it was doubtful whether they would ever become aware of their own worth.

6. Her delegation was pleased that there had been no disagreement with respect to article 3 of the draft covenants.

7. Turning to article 18 of the draft covenant on civil and political rights, she pointed out that, although article 18 of the provisional Constitution of Indonesia provided that every person should enjoy freedom of religion, conscience and thought, it made no mention of the freedom to change one's religion or convictions because the Government had not wished to give the impression that it advocated a change of religion; it considered that article 18 of the Constitution together with article 43, paragraph 2, by which the State guaranteed the liberty of each resident to worship as he chose, adequately safeguarded, as they stood, the right to change one's religion; furthermore, those articles in no way restricted the right of parents to bring their children up in their own religion.

8. Her delegation regretted that the Commission on Human Rights had decided to adjourn *sine die* consideration of the question of the right to own property. That right, which was proclaimed in article 17 of the Universal Declaration of Human Rights, was also referred to in article 26 of the provisional Constitution of Indonesia, which, moreover, recognized the social nature of the right to own property; in other words, it recognized that that right should not be exercised or maintained to the detriment of the public interest. As the Indonesian Government had pointed out at a meeting of the House of Representatives, the right to own property entailed a social obligation, and the Government could intervene if that right was abused. Article 27 of the provisional Constitution of Indonesia also made compensation compulsory in the event of expropriation. She was gratified to note that a number of delegations had requested the inclusion in the draft covenant on economic, social and cultural rights of an article on the right to own property. In view of the fact that the concept of property varied considerably from one country to another, it might be advisable to

draft an article in general terms; if the Committee should decide to go into greater detail, however, the provisions of that article should be as complete as possible in view of the legally binding nature of the draft covenant. Her delegation endorsed the opinion that the right to own property was subject to the right of peoples to self-determination—the right of a people to enjoy the benefits of the natural resources of its own country.

9. With regard to the question whether reservation would be admissible or not, her delegation believed that a compromise solution should be found. It reserved the right to express its views later in the discussion on the various proposals that had been submitted.

10. The interdependence of the two draft covenants had been generally recognized. In view of that fact and the provisions of General Assembly resolution 543 (VI) concerning the submission of reports on the implementation of the rights, the system provided for in article 17 of the draft covenant on economic, cultural and social rights should also be applied in respect of the draft covenant on civil and political rights. Her delegation considered that article 49 of the latter draft contributed nothing new, since a system already existed for the transmission of information published in the *Yearbook on Human Rights*. The procedure provided for in article 49 should not necessarily be construed to mean that those rights would be applied progressively, for their very nature called for immediate implementation. Moreover, article 2, paragraphs 2 and 3, of the draft covenant on civil and political rights and article 2, paragraph 1, of the draft covenant on economic, social and cultural rights guaranteed that Governments would fulfil the obligations that they would assume by acceding to the covenants.

11. She supported the suggestion that the report of the tenth session of the Commission on Human Rights (E/2573) and the relevant records of the Third Committee should be transmitted to the Governments in order that they might study the draft covenants in detail. She expressed the hope that the arduous task begun in 1948 would soon be completed and that the great majority of Member States would be able to subscribe to the results.

12. Mr. RODRIGUEZ FABREGAT (Uruguay) observed that the draft conventions in their existing form were the outcome of many years' labour on the part of various United Nations bodies, in which all the Member States had taken part; they marked the completion of the first stage on the road towards what would be one of civilization's finest achievements. Everyone in Uruguay felt the keenest interest in that enterprise: the Government, the duly constituted bodies and the citizens' associations, filled with enthusiasm, had done their utmost to contribute to the establishment of instruments which deserved the respect of all mankind. From the time of the San Francisco Conference the United Nations had proclaimed their faith in fundamental human rights. At the conclusion of an appalling war, those peoples who believed in freedom and justice had wished to build a new world based on democratic principles. Thus one of the oldest aspirations of the human race had found its expression in the Preamble and Article 1 of the United Nations Charter. Three years later the United Nations, in the Universal Declaration of Human Rights, had reaffirmed that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the

human family was the foundation of freedom, justice and peace in the world. The same wording was repeated in the preamble to the draft conventions. It was the very heritage of humanity that was at stake. In the course of the centuries many had fought and fallen in the hope that their descendants would see the dawn of freedom and justice. Their sacrifice would not have been in vain. The time had come for the United Nations to consider instruments which had a very special significance, since they would impose on States the obligation to guarantee the inalienable rights of the human person.

13. The Uruguayan delegation reserved the right to explain in detail at a later stage of the debate the reasons which had led it to propose the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights (E/2573, annex III); it would also raise certain other specific points relating in particular to the federal article, to the territorial application article and to petitions. For the time being he would deal with general considerations only. At the same time he wished to thank those delegations which had spoken favourably of the Uruguayan proposal.

14. The United States of America had announced that it was not prepared to support the covenants; it had submitted draft resolutions (E/2447, paras. 263, 269 and 271) suggesting other ways of promoting universal respect for, and observance of, human rights and fundamental freedoms. In his opinion those proposals did not exclude the covenants; they would establish as it were a supplementary procedure that would be most useful during the early stages of implementation of the two instruments in question. By suggesting that Member States should be asked to report periodically to the General Assembly on the results achieved in the field of human rights and the particular difficulties they encountered, the United States had drawn attention to an important practical question. In that connexion he referred to the struggle waged in all the American countries to establish democratic institutions based on the respect for human rights. Uruguay, which had reached an enviable stage of development in that respect, would not agree to any provisions which were intended to replace the covenants, but would warmly welcome anything that would supplement them. The rights embodied in the draft covenants were all essential to life; their enjoyment should be guaranteed everywhere.

15. Article 2 in both draft covenants (E/2573, annex I) categorically prohibited discriminatory practices; that was a point of fundamental importance. The Uruguayan Constitution proclaimed that everyone was equal before the law and made no distinctions except on the grounds of skill and character. His delegation, supported by the other Latin-American delegations, had striven tirelessly to have similar provisions included in the covenants. On the moral plane, the part played by each nation in the common effort was not dependent on that nation's economic or military strength; each made its contribution to human progress in a spirit of solidarity. The Uruguayan Constitution could also be held up as a model in its provisions for the right to just and favourable conditions of work, since it even recognized the right to strike; women and children enjoyed special protection. Uruguay was proud to be able to offer the world the example of a truly and profoundly democratic State. Times had changed

since the end of the last century; the name of Don José Batlle y Ordóñez would forever be linked to the reforms that had been brought about. That great Uruguayan statesman had been inspired above all by the ideals of justice and liberty; he had withdrawn the monopoly of public services from foreign concessionaries and had placed all the instruments of production in the hands of the Uruguayan nation. Economic power was vested in the State, which exercised it for the common good; Uruguay had thus embarked on a course of new democracy in which all human rights were recognized and respected. The new systems of production and wages had made it possible, for example, to introduce free compulsory primary education. As international statistics showed, illiteracy always went hand in hand with poverty. The political freedoms were so many empty words without economic freedom. As the Provincial Governor had said in opening the third session of the Economic Commission for Latin America at Montevideo, the workers should be freed forever from the stigma of economic subjection. The two covenants were therefore intimately linked and interdependent.

16. His delegation supported the draft covenants submitted by the Commission on Human Rights, although it intended to propose certain drafting amendments. Postponement of the second reading of the drafts to the next session would give the Governments and peoples concerned an opportunity to submit their suggestions as to the final form the two instruments should take.

17. A few specific points should however be emphasized at the outset. The right of petition should be granted to individuals and appropriate machinery should be provided for the consideration of complaints; the Uruguayan proposal on the establishment of an Office of the United Nations High Commissioner (Attorney-General) for Human Rights would meet that need.

18. The provisions of article 18 of the draft covenant on civil and political rights fully guaranteed the freedom of conscience and religion dear to all truly democratic people. It was satisfactory to note that the draft covenants recognized the absolute social equality of men and women.

19. On the other hand, it was regrettable that article 6 of the draft covenant on civil and political rights included a reference to sentence of death. His delegation had submitted a draft article calling for abolition of that penalty but the Commission on Human Rights had rejected it. In Uruguay, the death sentence had been abolished at the beginning of the century without any consequent rise in criminality. Furthermore, the prison system in Uruguay had been radically modified; the main emphasis was now placed on re-educating the delinquents and readapting them to social life. In any event the fact that article 6, paragraph 4, prohibited the execution of a pregnant woman was a good augury for the future; the application of the death penalty to people bearing within them new life should be prohibited forever.

20. With regard to the territorial application clause, the world could not be composed half of free men and half of slaves; all human beings had the same rights.

21. His delegation reserved the right to speak again on the various points he had raised. For the moment it merely wished to stress the importance of the covenants which, following the Charter and the Universal

Declaration of Human Rights, would be a further milestone in human progress.

22. Mrs. AFNAN (Iraq) thanked the Commission on Human Rights and all organs of the General Assembly for their untiring efforts in the preparation of the draft covenants. Her delegation had not been in favour of a general discussion of the texts in the Third Committee, but the interesting and important statements which had been made had convinced her of the value of that procedure. She too would try to state her delegation's position, but unlike the previous speakers, would pass from the particular to the general. She intended to begin with the question of implementation.

23. Her delegation believed that, as a matter of principle, the covenants should contain some measures of implementation because, without such provisions, they would be no more than a new declaration of human rights. The responsibility for implementation should, nevertheless, rest primarily with the signatory States themselves. Her delegation would support the suggestion made by the representative of Burma (566th meeting) that the following formula should be inserted in the articles in part III of the draft covenant on economic, social and cultural rights: "Each State Party to the Covenant shall direct its policy towards ensuring or securing the right . . ." Her delegation could subscribe to the system of periodic reports, but, as it did not accept the division of rights into categories, it felt that the system should apply to both covenants. As the draft covenant on civil and political rights contained measures such as article 2, paragraph 2, and article 22 which could be applied progressively, that should be possible. She noted that in the articles on implementation, certain functions had been reserved to the specialized agencies. She could not agree to any of those articles. She did not question the competence of the specialized agencies; the fact that Iraq was a member of them was proof of the contrary, and there could be no doubt that they had greatly contributed to that country's development programme, but her delegation thought that the implementation of the covenants should be exclusively the responsibility of the United Nations. The Economic and Social Council and the Commission on Human Rights had, under the Charter of the United Nations, powers to make recommendations to Member States, but that was not true of the specialized agencies.

24. The "basic differences" between the two covenants had often been emphasized in the Commission on Human Rights, and a member of that Commission had said that one of the differences was that the draft covenant on economic, social and cultural rights had been placed under the protection of the specialized agencies. Her delegation frankly feared such a division of responsibilities; it attached great importance to the unity and universality of the covenants. She noted that among the measures of implementation in the draft covenant on economic, social and cultural rights, article 24 was the only one which did not refer to the specialized agencies. It was a particularly important article since it was the only one which provided for international measures designed to ensure the observance of the provisions of the covenant. The system of reports was in fact merely a gesture; it showed that the signatory States accepted the principle of international responsibility but it could not have much practical effect. In the opinion of her delegation, article 24 should be given an important position in the covenant,

and its provisions should be amplified on the lines suggested by the Brazilian representative. In the absence of a truly international effort in the field of economic co-operation, the under-developed countries would certainly not be in a position to ensure to their nationals the exercise of the rights set forth in that covenant.

25. Her delegation could not yet state its position on the question of the proposed human rights committee, but it felt bound to comment on the right of petition. The covenant should recognize the right of individuals to present petitions, always provided that the organ responsible for hearing those petitions was wisely constituted. Governments should encourage the formation of citizens' groups for the promotion of human rights.

26. The Iraqi delegation had no objection to the inclusion of an article on the right to own property. Islam recognized that right, but within certain clearly defined limits. In view of the rapid evolution of the notion of property in the modern world, the limits within which that right might be exercised had to be carefully specified.

27. The question of reservations was naturally very important, less on account of the principle involved than of the influence it had on a State's decision whether or not to accede to the covenants. Generally speaking, her delegation was not in favour of including reservation clauses in multilateral conventions; she was not yet in a position to state what her delegation's attitude would be in the case in point, but she could say already that it would not be in favour of unlimited reservations.

28. With regard to the federal clause, her delegation agreed that it did not reflect the recommendations of the General Assembly in its resolution 421 C (V). The majority which had voted in favour of that resolution would doubtless be able to draft a text which would meet those recommendations.

29. Article 18 of the draft covenant on civil and political rights had given rise to lengthy discussions. The representative of Pakistan had made a sensible comment at the 571st meeting: being convinced that there was no essential disagreement between the representatives of the Moslem States, she had appealed to them to refrain from embarking on a debate which might give rise to misunderstandings among the other members of the Committee. The comments made by the representative of Chile had shown that such fears were not unfounded, and she would like to reassure him. The strength of Islam throughout the centuries had lain precisely in the freedom with which Moslems were allowed to interpret the Koran. The differences of opinion between herself and the representatives of Afghanistan and Saudi Arabia concerning article 18 did not affect their agreement on fundamental points.

30. She turned next to considerations of a more general character. She was grateful to the Commission on Human Rights for drafting article 1 of the two draft covenants. She reviewed the difficulties encountered by that Commission in preparing covenants which would be acceptable to the greatest number of countries, bearing in mind the considerable differences of every kind which separated them. It was because of those difficulties, which had seemed insurmountable, that the idea of dividing human rights between two separate covenants, which had existed from the start, had begun to gain ground. In the opinion of the Iraqi delegation, the General Assembly had made a grave

mistake when it had reversed its original position and agreed to group human rights in two separate covenants. Such a grouping of human rights in two separate instruments threatened the principle of their universality; it weakened the covenants; it established a hierarchy of rights and justified those delegations which had always contended that, although in principle all rights were equal, some could be put into effect forthwith while others could be implemented only progressively. Those delegations now said that the right of peoples to self-determination should belong to a third category, that that right was only a "principle" and therefore had no place in the covenants. Those delegations which had always been more interested in the practical aspect of the covenants than in principles now wanted the exercise of certain rights to be safeguarded by means of conventions drawn up by the specialized agencies. The danger of compromise was that there was no end to it. Moreover, in the case in point, the compromise had proved useless; its only effect had been to shift the problem and to create further complications; not only had human rights been artificially divided but they had even been evaluated according to their importance in the past.

31. Thus, one draft covenant proclaimed the right to life while the other left it to States to take progressive steps to combat infantile mortality; one set forth the right of an accused person to free legal assistance if he was unable to pay, and the other made the fight against epidemics a matter for progressive implementation. The right to freedom of speech was provided for in the draft covenant on civil and political rights, but it was hard to see how it could be exercised if the appropriate social, economic and cultural conditions did not exist. Modern civilization was too complex to allow human rights to be evaluated according to their historical context. It would be much easier for some countries to grant their citizens the right to social security or free education immediately than it would be for others to respect the article which provided that "all persons shall be equal before the courts and tribunals". The implementation of the first required only financial resources; the implementation of the second raised problems which were much more difficult to solve in countries which had been oppressed for centuries. In covenants which sought to guarantee all people of all nations, without distinction, the inalienable rights of the human person, that aspect of the problem could not be neglected.

32. The general debate had brought out possibilities of agreement and differences of opinion. The first related to points of detail only. The second, on the other hand, were more formidable since they related to fundamental principles. Iraq had put great hope in the adoption of a covenant on human rights; it knew that it would not be able to adhere to it immediately but it was glad that other countries could do so and that the instrument would become a reality and a goal towards which it would strive. The purposes behind the draft covenants had to be sought out in order to be evaluated. At the end of the Second World War, mankind, in a supreme effort to save civilization, had set up the United Nations and established the Charter. In the search for a new prescription for peace, it had reaffirmed the inalienable rights and freedoms of the human person and sought a way of guaranteeing respect for them throughout the world. Thus had been born the idea of the draft

covenants. There had been no precedent for that idea. A common denominator had to be found, neither too high nor too low, in order to translate into legal instruments a genuine ideological revolution originating in the Charter. The delegation of Iraq had not lost faith in the achievement of that purpose, but it

no longer believed that the task which had been begun could be completed in the near future. It had the success of the undertaking too much at heart to be able to share the general optimism.

The meeting rose at 5.30 p.m.