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

Draft first international covenant on human rights and measures of implementation (A/1384, A/C.3/534, A/C.3/535, E/1681 and E/1721 and Corr.1) (*continued*)

[Item 63]*

1. Mr. PEREZ PEROZO (Venezuela) said that Venezuela was a federation, but that the states composing it had delegated to the federal government full powers in regard to international relations, and particularly in regard to the conclusion of conventions and their application to the national territory. As far as Venezuela was concerned, therefore, there was no constitutional need for the inclusion of a federal clause in the draft covenant. In principle, Venezuela held that all States signatories to an international convention should assume reciprocal obligations, and that in the case of a federal State those obligations should be binding not only on the federal government but also on all the constituent territories.

2. The delegation of Venezuela considered that it would be premature to reply to the question raised by the Economic and Social Council; the draft covenant was far from being completed, since the Third Committee was asked to submit suggestions to the Commission on Human Rights with a view to the drafting of a final text. Only when that text had been drawn up would the General Assembly be in a position to adopt or reject the contemplated federal clause in full knowledge of all the facts.

3. For the time being, therefore, the Committee should authorize the Commission on Human Rights to study the various drafts submitted by the delegations, and it was to be hoped that those which were against the inclusion of a federal clause would show a spirit of conciliation and would not oppose such a solution.

* Indicates the item number on the General Assembly agenda.

4. The attitude adopted by the delegation of Venezuela when the final vote was taken would essentially depend on the text chosen. It would be unable to vote in favour of any article which did not adequately guarantee the principle of the equality of the obligations undertaken by States in acceding to the covenant.

5. The CHAIRMAN reminded the Committee that it had decided, at its 292nd meeting, to consider separately the two parts of the second question put to the General Assembly by the Economic and Social Council, namely the question of the desirability of including special articles on the application of the covenant to federal States and to Non-Self-Governing and Trust Territories.

6. He opened the debate on the question of including a colonial clause.

7. Mr. Danton JOBIM (Brazil) said that his delegation was in favour of including a clause on the application of the covenant to the Non-Self-Governing Territories; but it wished to make certain reservations. In the opinion of the Brazilian delegation, such a clause should never be able to serve as a loop-hole for certain States or enable them to deny human rights to the populations of the territories they administered.

8. If the human rights proclaimed in the Universal Declaration were really universal; if everyone was entitled to them without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status; if those rights were the equal and inalienable rights of all the members of the human family, it was obvious that no one in the world could be deprived of them. But it was one thing to be entitled to a right and another really to enjoy it.

9. The theoretical formulation of the principles of the Declaration did not mean that they were actually being applied throughout the world. All men were free and equal in dignity and rights; but to be able to enjoy his

freedom a man must be educated for it. That was why the political institutions which were the corollary of fundamental human freedoms could not always be extended immediately to peoples which were not yet politically mature.

10. In that connexion, the report on educational policy in Non-Self-Governing Territories (A/1303/Add.1) which was to be studied by the Fourth Committee was an exceptionally important document, since it gave expression to the new spirit which was inspiring the metropolitan countries to raise the educational level of indigenous populations.

11. It was only fair to stress the fact that the Administering Authorities, particularly France and the United Kingdom, were abandoning the old imperialistic concepts by virtue of which the indigenous peoples were subjected to the domination of a privileged minority of white colonists or to the caprice of uncontrolled colonial officials. Remnants of that old-fashioned policy still prevailed in some backward sections of the Non-Self-Governing Territories, but generally speaking the need to bring the principles proclaimed in the Universal Declaration of Human Rights into full application by means of progressive reforms was accepted by everyone.

12. It must be remembered that the Non-Self-Governing Territories had not all reached the same stage of development, far from it, and the principles of the covenant could not therefore be made effective immediately in all those territories. Nevertheless, the Administering Powers should do everything possible to stimulate their development. It was incumbent on the Administering Authorities to apply the covenant with due regard to the degree of development in each territory. The community of nations would be best served if every effort were made to ensure universal and effective respect for human rights, on the basis of a realistic approach both to the problems of the non-self-governing populations and to the needs of the minority of settlers living among them.

13. The delegation of Brazil recognized that the covenant must be applied in an objective and flexible manner; but it could not approve the fact that nations represented in the Committee refused to grant the peoples of the territories they administered adequate representation in local government organs, and other rights equally essential to human dignity.

14. In that connexion he called attention to the fact that in certain Non-Self-Governing Territories whipping and penal sanctions for breach of labour contracts had not yet been abolished. Such regrettable practices could not be explained away on grounds of political and administrative expediency or justified by the backwardness of the local population. They were degrading and should be suppressed immediately.

15. While the delegation of Brazil supported the inclusion of the so-called territorial clause, it wished to make it clear that it should never be invoked as an excuse to deprive the indigenous inhabitants of Non-Self-Governing Territories of the enjoyment of human rights, rights which must be granted wherever social and educational conditions made it possible.

16. Lord MACDONALD (United Kingdom) emphasized that his government, in asking for the insertion of a colonial clause in the covenant, was not seeking to

provide itself with an excuse for not applying the provisions of the covenant in the territories which it administered. His government was merely animated by the desire to fulfil its responsibilities towards the peoples of those territories under the Constitution of the British Commonwealth.

17. The question before the Committee was not whether it was right or wrong that a colonial system should still exist in the twentieth century but merely whether, with such a system in existence, a colonial clause should be incorporated in the covenant. The Pakistan representative had said, at the 292nd meeting, that the insertion of such a clause in the covenant would help to keep alive the myth of the liberty of the peoples of Non-Self-Governing Territories. There was an element of truth in all myths, and the case under discussion was no exception to the rule. The United Kingdom had never claimed that the peoples of the territories under its administration were sovereign and independent. No one could deny, however, that those peoples were constantly progressing along the road to self-government and independence and it was precisely in order to take such progress into account that a colonial clause should be inserted in the covenant.

18. The United Kingdom had always pursued the principle of guiding the peoples of the territories that it administered by degrees to responsible self-government within the Commonwealth and, not content with proclaiming that principle, it had always taken vigorous steps to apply it. Indeed, there were very few territories which did not possess a local legislative body with a large measure of responsibility in the domestic and local spheres. The realm of foreign affairs and international relations was still reserved for the United Kingdom Government, which signed international agreements on behalf of the territories. As a rule, that government undertook no obligations on behalf of the colonies under any convention or treaty without consulting the local governments. If the colonial clause were omitted, the participation of colonies in an international convention would become automatic, and those territories would thus find themselves deprived of the right to decide for themselves. The opponents of the colonial clause would therefore seem to be illogical, since they demanded autonomy for the peoples of the Non-Self-Governing Territories, while at the same time denying them the right to decide for themselves.

19. The United Kingdom Government refused to adopt such a course, which it considered to be retrograde and contrary to its general policy of encouraging the development of responsible self-government in the Non-Self-Governing Territories. In its opinion, the only correct and democratic solution was to incorporate in the covenant an article allowing a colonial Power to accede immediately to the covenant for its metropolitan territory and subsequently, after consultation with the colonial territories, for each of the colonies when they had declared their willingness to have the covenant extended to them. The absence of the colonial clause would compel the metropolitan governments to contract obligations under the covenant on behalf of the colonies without having consulted the local governments.

20. If the colonial clause were not incorporated in the covenant, the metropolitan governments would be obliged to consult all their colonial territories before

ratifying the covenant; in the case of the United Kingdom, that would not prevent the government from applying the covenant, but would delay its accession to it.

21. With regard to the question of the federal clause, certain representatives had stated that such delay in accession would not be of great importance; they would probably say the same with regard to the colonial clause. The United Kingdom representative, on the other hand, thought that such delay was undesirable.

22. Mrs. MENON (India) said that it would not be difficult for her to state her opinion, which was understood and shared by all who believed in democracy and in the equality of human rights, and which had been upheld on many occasions by her delegation.

23. After listening to the statement made by the Belgian representative at the 292nd meeting, the Indian delegation was convinced that the colonial countries, however liberal they might be, had not altered their attitude on the question. She therefore entirely supported the views of the Pakistan representative and agreed with him that, if colonialism had not vanished from the face of the earth, it was high time that it did so.

24. The Indian delegation was convinced that the colonial clause would give the metropolitan Powers the right to impose their will upon the peoples of the Non-Self-Governing Territories. The advocates of that clause made much of the differences in the degree of development of the various territories. That was an outworn argument, and India, speaking for all those countries in Asia which had so often been told that they were not ripe for independence, that they would have to be patient and wait for the day when, after a gradual evolution, they would be able to achieve autonomy, wished to state that at the moment all peoples, whatever stage of development they had reached, had the right to govern themselves.

25. The Indian delegation was the more strongly opposed to the insertion of the colonial clause because it was precisely in the Non-Self-Governing Territories and in the colonies that the covenant should be specially applied, since it was there that violations of human rights were unfortunately most frequent. The question of the colonial clause directly affected millions of defenceless individuals who suffered in silence and whose position would still be one verging on degradation if the special organs of the United Nations had not been moved to take their part.

26. Mr. VLAHOVIC (Yugoslavia) contended that the colonial clause should not be incorporated in the covenant.

27. In his opinion, the question should be studied in the light of the Charter, and in particular of Article 73, in virtue of which those Members of the United Nations which had or assumed responsibilities for the administration of territories whose peoples had not yet attained a full measure of self-government accepted the obligation to develop the capacity for self-government of those peoples, to take due account of their political aspirations and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement.

28. By accepting those obligations, the metropolitan Powers had undertaken to allow the peoples of the territories to participate in all the obligations which they contracted in the international field, and in particular in those arising from the conventions and agreements adopted by the United Nations. It would therefore be contrary to the spirit and even the letter of the Charter to attempt to authorize the metropolitan Powers to exclude the territories placed under their administration from the application of the covenant on human rights.

29. Those who upheld the colonial clause had taken their stand solely on constitutional ground, but it should be recalled that, under the Charter of the United Nations, Member States had accepted the obligation to bring their constitutions into line with the provisions of the Charter and even, if necessary, to recognize that those provisions took precedence over the corresponding clauses of their own constitutions.

30. Either the colonies enjoyed self-government, in which case they could freely accede to international agreements, or such self-government did not exist, in which case only the metropolitan Powers were able to accede to such agreements.

31. Normally the status of Non-Self-Governing Territory should be a temporary one, since the countries to which it applied ought to achieve complete self-government. The fears voiced by the defenders of the colonial clause regarding the automatic application of international agreements were entirely without foundation, as there was no question of imposing obligations on a territory without the previous consent of its population, but simply of granting the rights which were its due.

32. The covenant, though still imperfect, should allow the less favoured peoples to enjoy the rights proclaimed in the Universal Declaration of Human Rights; he would therefore oppose the inclusion of the colonial clause, which would deprive that instrument of its true significance.

33. Mr. CASSIN (France) considered that the problem of the colonial or territorial clause was essentially the same as that of the federal clause. It was a question of determining whether or not certain constituent parts of a given State could accede to an international instrument before other parts of the same State.

34. France based its policy in the matter primarily on Article 73 of the Charter and article 2 of the Universal Declaration on Human Rights, which precluded all discriminatory measures, but it should be demonstrated dispassionately that the problem was not as simple as some believed.

35. Mr. Cassin attempted, first of all, to determine the scope of application of the so-called colonial clause with respect to the French Union. The question did not arise with regard to certain parts of the French Union subject to the same system as France itself: such was the case with the overseas departments, equivalent in all respects to the French departments, and with Algeria. At the other extreme, the Associated States of Viet Nam, Cambodia and Laos had acquired the power to make treaties on their own account. With regard to Tunisia and Morocco, protectorates subject to France, the French Government was responsible for international relations but could not bind those States except

by commitments expressly signed in their name. Finally, the clause concerned only the overseas territories and the Trust Territories. The overseas territories, namely French West Africa, French Equatorial Africa and Madagascar, were an integral part of the Republic. Their nationals were French citizens and were represented in Parliament. Nevertheless, in certain respects their legislation was special and provided for various kinds of personal status. The Trust Territories, namely Togoland and Cameroons, were entrusted to the administration of France, but, within the international regulations defining the powers of administration, France could not undertake any obligations applicable to them without taking their interests into consideration.

36. Replying to various observations, he discussed the use that France had made of the colonial clauses that were included in previous instruments. He cited the conventions with humanitarian aims such as those dealing with opium or the traffic in women. In the eighteen months or two years which had followed the opening of those conventions for signature, the French Government had brought the legislative provisions of metropolitan France and its territories into conformity with those of the conventions and had acceded to them *en bloc* on behalf of all its territories. He also cited the labour conventions, one group of which had become applicable to the overseas territories through changes in the legislative texts. They dealt particularly with night work and the employment of women and children, and in that case the colonial clause had had no lasting effect after having produced its results. There was another group of conventions which it had not yet been possible to ratify, but the work of adapting the legislation, in particular by means of a labour code, was under way. Lastly, there was a third group, namely that of the 1947 conventions: no one would be surprised that the work had not yet been completed. He left it to the Committee to judge the application that France had made of the colonial clause.

37. He then discussed the advantages of including the clause in the covenant. If the covenant was to consist solely of the first eighteen articles, there should be no question of France's requesting or availing itself of the territorial clause since the covenant referred to essential human rights, which bore a direct relation to the Charter and which were recognized, as far as France was concerned, by the Constitution of 1946 and by legislation that was as comprehensive for overseas territories as for metropolitan France. Examples were the right to legal counsel and freedom of religion, particularly in the form of freedom of conversion. It should not be forgotten, however, that it was a first covenant which would be followed by others that would include all the rights set forth in the Universal Declaration of Human Rights. The Committee should anticipate the situation that would arise when, some years later, it came to study, for example, a convention to protect the rights of the family which, in the case of France, for instance, would not be the same for a Christian family as for a Moslem family.

38. He warned the Committee against omitting any territorial clause, which would represent a double alternative disadvantage. It might subject countries inhabited by different peoples to uniform obligations, and the standards that they adopted for their legisla-

tion would be those applicable to peoples still in the lowest stage of development; or in the case, for example, of a convention on the rights of the family, it would involve transformations that might require several months in metropolitan France but could only be carried out in the overseas territories after a long period of time and then under conditions that might endanger public order, since the peoples would not be ready for such changes. In either case, such measures would run the risk of retarding human progress.

39. He did not doubt that all the representatives had the same ideal, but some were not aware of the complex nature of the reality and wished to make sweeping changes merely by a stroke of the pen. He appealed to the common sense and reason of the members of the Committee. Since the covenant was to serve as a model, juridical geometry was out of place; behind the texts were human beings who had convictions and beliefs that must be treated with respect.

40. Such were the reasons for which France deemed it unwise to eliminate that instrument of progress, the colonial clause.

41. Mr. MACCAS (Greece) said that he could speak objectively since Greece had no colonies. Everyone knew how Greece had dealt with them when Hellenism was synonymous with civilization. Everyone knew that Greece was one of the most liberal countries in the world, and that it went even beyond the obligations set forth in the covenant.

42. With regard to the problem before the Committee, he was of the opinion that to omit the colonial clause would amount to applying the provisions of the covenant both to the metropolitan territory and to the other territories, but an extreme measure of that kind did not seem justified to the delegation of Greece. After all, evolution had not followed the same rate and the same direction everywhere; otherwise there would not exist non-self-governing countries which clearly were not ready to be governed according to absolutely liberal principles. Even among the sovereign peoples constituting the United Nations there were differences which caused them to accept certain clauses of the draft covenant with the greatest reserve or not to accept them at all. To demand equality in the application of the covenant was, therefore, unrealistic.

43. It was noteworthy that those who demanded automatic equality also advocated the right of peoples to self-determination and he stressed the inconsistency of those two positions.

44. A policy of compulsion would indeed be ineffective, since it was not enough to pass a law to bring customs into line. Such a policy might even prove dangerous since there were already enough potential sources of trouble in the world. It was to be feared that the immediate granting of full and universal liberty might end in anarchy; it would be deplorable if the proposed covenant on human rights paved the way for revolutionary outbreaks in certain parts of the world. Backward peoples were far removed from a liberal and humane society and the draft covenant provided a period of transition during which the Administering Authorities should adopt as liberal a position as possible.

45. The delegation of Greece entirely approved the proposal of the Government of Australia (E/1681, annex I, page 22) requiring the Administering Authorities to state the reasons for which they had not extended the application of the covenant to all their territories. It also felt that those States should be enabled to introduce gradually the liberties guaranteed by the covenant.

46. In conclusion, while he certainly did not wish to appear to advocate colonialism, he thought that progress should not be altogether jeopardized by adopting absolutist ideas and attempting to move too fast. Progress could be achieved only slowly and surely.

47. Mr. KAYALI (Syria) described the concern of the Syrian delegation over the lot of millions of human beings who would be deprived of the exercise of their fundamental rights if the colonial clause were retained. As a representative of a country which had known the mandates system, contrary to the desires and aspirations of its peoples and to the provisions of the League of Nations Covenant, he felt it his duty to dwell on the matter. The Mandatory Power had made commitments on behalf of Syria without ever consulting the Syrian authorities, and the case was not an isolated one.

48. It was paradoxical to see the colonial Powers that had often been the first to violate the right of self-determination posing as champions of non-self-governing countries. To explain their attitude, some declared that the omission of the colonial clause would prejudice the progressive development of the colonial territories; others, that the government could not enter into commitments on behalf of colonies and Non-Self-Governing Territories without consulting them. Their only purpose, of course, was to prevent the application of the covenant on human rights to colonial territories.

49. In the opinion of the Syrian delegation, the covenant, in consecrating a number of essential rights, represented a step forward in social and humanitarian development. It was convinced that the application of the covenant would assist backward countries to develop. There was no question of imposing a decision or a covenant upon those countries but only of supplying them with the means of progress. For that reason, the Syrian delegation would willingly agree to the insertion of the colonial clause if that clause would really enable the colonies, protectorates and Trust Territories to have a voice in the various commitments entered into on their behalf; but that was not the case.

50. The Syrian delegation considered, moreover, that the colonial clause would be contrary to the United Nations Charter, which was based upon the principle of equality of human rights. It was in the colonies and Non-Self-Governing Territories that the implementation of the covenant on human rights was most essential, and most useful. When several delegations asserted that their constitution went further than the covenant with regard to human rights and liberties, the question was whether their constitutions applied to their colonies and Non-Self-Governing Territories. What was to be feared was not the refusal of territories to accede to the covenant but the refusal of the

colonial Powers to apply the covenant; their insistence that the clause should be adopted was tacit proof of their intentions.

51. The colonial Powers, however liberal and however determined to respect the Charter of the United Nations, had not changed their mentality, and the colonial peoples were in greater need of protection than others.

52. In this connexion he read a letter dated 13 April 1950 addressed to the French Prime Minister by Mr. Mohamed Khider, Deputy of Algiers to the National Assembly, and Mr. Embarck Djilani and Mr. Lamine Belhadi, delegates to the Algerian Assembly, denouncing the acts of violence committed by the police during the incidents in Algeria in April 1950 and requesting the French Government to fulfil the obligations that it had assumed.

53. That, he asserted, was an episode in the struggle of the peoples of Africa and Asia for their freedom. Syria attached particular importance to that struggle because it took place in North Africa, the population of which was linked with the Syrian people by identical culture, history, language, religion and aspirations.

54. It was to further that noble cause that the Syrian delegation rejected the colonial clause.

55. Mrs. ROOSEVELT (United States of America) said that the United States Government was not obliged to obtain the consent of the territories which it administered before it extended to them the application of an international convention that it had signed and ratified on their behalf as well as on that of the metropolitan territory. Nevertheless, the United States delegation was aware of the constitutional difficulties that might be encountered by certain States in that connexion, and would therefore support the inclusion of a colonial clause in the draft covenant.

56. Mr. PANYUSHKIN (Union of Soviet Socialist Republics) recalled that the USSR delegation had already given the reasons why it objected to the inclusion of a federal clause in the covenant on human rights. The same reasons led it to object to the adoption of a colonial clause.

57. It considered that any State which acceded to an international covenant was obliged to extend its application to all the territories under its jurisdiction, without any exception. The purpose of the so-called colonial clause was to enable the colonial Powers to exclude the populations of the territories they administered from the field of application of the instrument concerned.

58. He recalled that, by signing the Charter, all the Member States of the United Nations had undertaken a solemn obligation to promote to the greatest possible extent the welfare and prosperity of the peoples dependent upon them. He quoted the provisions of Article 73 and Article 76 of the Charter and referred in particular to paragraph c. of the latter Article, which mentioned among the essential purposes of the Trusteeship System the obligation "to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".

59. If the United Nations wished to take effective action in the field of human rights and if its Members really wished to carry out the responsibilities incumbent upon them under the Charter, they must observe not only the letter but also the spirit of those important provisions.

60. He also recalled the very clear wording of article 2 of the Universal Declaration of Human Rights, a document that all the Members of the United Nations had accepted and supported two years previously. The second paragraph of that article provided that "no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty".

61. The United Nations was trying to draft a covenant on human rights. Its task was perfectly clear: every man, wherever he lived and whatever his condition, above all wished to live. In order to ensure that right to existence, certain definite rights and freedoms had to be guaranteed. Those rights and freedoms have been proclaimed in the Declaration; and the Declaration, like the Charter, called for the universal application of those rights and freedoms. The covenant, which was the instrument of that application, could not fail to carry out that obligation: the insertion of a special clause excluding from its application the colonies, Non-Self-Governing Territories and Trust Territories would be contrary to the very principles proclaimed in the Charter and the Universal Declaration of Human Rights.

62. The USSR delegation was therefore strongly opposed to the inclusion of any colonial clause in the covenant on human rights.

63. Mr. MOODIE (Australia) stated that his delegation was in favour of including a colonial clause in the draft covenant. Nevertheless, it considered that it would be premature to take a final decision in that connexion, since the purpose of the current debate was to sound out the views of members of the Committee, and especially of those who were members neither of the Commission on Human Rights nor of the Economic and Social Council, in order that the Commission might take such views into consideration when it had to reconsider the draft.

64. It was apparent from the debates that had already taken place on the first eighteen articles that certain delegations considered them to be incomplete either in content or in number. Certain representatives even wished to include economic and social rights in the first draft covenant. In those circumstances, while the very contents of the first covenant were still uncertain, it hardly seemed possible to expect the Administering Powers, which had assumed very precise obligations towards the territories for which they were responsible, to accept forthwith a draft which did not include a colonial clause.

65. He pointed out that Chapters XI and XII of the United Nations Charter, concerning Non-Self-Governing Territories and the International Trusteeship System, had been drafted with special care. Both chapters made clear that the Administering Powers must allow for the particular circumstances of each terri-

tory and its peoples and their varying stages of development. Article 73 a. specifically mentioned "due respect for the culture of the peoples concerned". Certainly no authority could be derived from the Charter for the proposition that covenants like that on human rights should be applied automatically to such territories. Administering Powers had to fulfil their obligations under the Charter.

66. He drew attention to another danger to which the rejection of the colonial clause might give rise. It had been stressed in the discussion of articles 3 to 18 that it was not enough to include in the covenant on human rights provisions which would only constitute the lowest common denominator of rights that were already acknowledged throughout the world. If that principle were accepted, the instrument which was to be drawn up would not correspond, for the time being at least, to the conditions prevailing in the most backward countries. Such a state of affairs would only serve to aggravate the difficulties with which the Administering Powers were confronted. In those circumstances, it seemed right and necessary to provide a clause which would make it possible to apply the covenant immediately whenever that was possible, and to apply it by degrees in other cases. He found it hard to believe that many representatives really felt that the covenant would be interpreted restrictively so as to deny inhabitants of colonial or trust territories the rights stipulated under the covenant, since the Administering Powers were bound under the Charter to carry out the solemn obligations he had mentioned.

67. The Australian delegation respected the sincerity with which the representatives of countries that had recently achieved their independence expressed themselves. It did not feel that it was defending the bygone colonial era by defending the colonial clause. Also, it could not disregard the United Kingdom representative's argument that the Administering Powers should not accede to international conventions on behalf of colonial or Trust Territories without having duly consulted the wishes of the peoples governed. That applied particularly where self-governing institutions existed. A vote against the colonial clause would therefore to some extent stultify the development of the practice of self-government in those areas.

68. Mr. DEMCHENKO (Ukrainian Soviet Socialist Republic) stated that his delegation opposed the inclusion of a colonial clause in the covenant.

69. The covenant on human rights should apply to all human beings without exception, irrespective of whether they were nationals of sovereign States or of Non-Self-Governing Territories. The inclusion of a colonial clause would be tantamount to violation of the most elementary rights of millions of individuals who lived in territories where it was more important than elsewhere to apply the freedoms guaranteed in the covenant, incomplete though they might be. The colonial clause would merely serve to aggravate the inequality and injustice of which those populations were victims.

70. The Committee could not take that course, which was contrary to the fundamental principles and purposes of the United Nations, to the provisions of Chapters XI and XII of the Charter—under which all

Member States, including the colonial Powers, had solemnly undertaken to promote the advancement of the populations of the Non-Self-Governing Territories, Trust Territories and colonial territories—and to the Universal Declaration of Human Rights, which stated that the rights set forth in the Declaration would be applied to all territories, irrespective of their political, jurisdictional or international status. In that connexion, he pointed out that, in view of the fact that the covenant restated the articles of the Declaration almost *in toto*, the Committee would be going back on a decision that it had itself taken two years previously, if it decided to include a colonial clause in the covenant.

71. It was considered in certain quarters that there were still regions in the world where the stage of development was such that the inhabitants should not be allowed to enjoy all the rights set forth in the draft covenant. That was indeed surprising, if it was remembered that those rights related to life, personal integrity, the freedom of the individual, his equality before the law, his freedom to work and freedom of access to educational establishments.

72. In that connexion, he did not consider that the examples given by the representative of France in defence of the colonial clause were convincing. Those arguments related mainly to the difficulties raised by questions concerning the personal status of people of different races and creeds whereas the covenant only related to fundamental human rights, irrespective of personal status.

73. He wished the Committee to disregard juridical, constitutional and other considerations, which were merely excuses; it should allow itself to be guided solely by the wish to give all the peoples of the world, especially those which did not yet enjoy their independence, the guarantee that they could benefit fully by their status as human beings and citizens of the world.

74. Mr. DAVIN (New Zealand) considered that inclusion of a colonial clause in the covenant was de-

sirable in the interests of securing the prompt and extensive application of that covenant.

75. The New Zealand delegation considered that the United Kingdom and French delegations had submitted a sound argument for the inclusion of the clause, whereas the delegations which opposed it were refusing to accept the proofs of good faith that the colonial Powers had tried to give them. Far from promoting the cause of the independence of Non-Self-Governing Territories, the attitude of the delegations which wished to reject the colonial clause could only serve to delay the application in a large part of the world of instruments such as the covenant, which should nevertheless be accepted and implemented by all governments as soon as possible.

76. Mr. ZELLEKE (Ethiopia) said that the arguments put forward in favour of the colonial clause had hardly convinced him. The discussion of the first eighteen articles of the covenant had been conducted on a purely human plane; but as soon as the problem of implementation had arisen, the Committee had lost itself in juridical, philosophic and other considerations, which merely served to confuse the issue.

77. He reviewed the first eighteen articles proposed for the first covenant and stated that he could find nothing in them that could not apply to colonies and Non-Self-Governing Territories, and nothing that might give rise to difficulties in the relations between those territories and the metropolitan Powers.

78. The fact that certain countries were backward in comparison with others did not justify their exclusion from the covenant. On the contrary, the reason for their backward condition was that their population had for so long been denied the opportunity to enjoy fundamental freedoms.

79. He pointed out that the Committee did not have to take a definite decision on the matter, but he wished to state that his delegation was opposed to the inclusion of a colonial clause.

The meeting rose at 5.40 p.m.