

It seems to me, that the adoption of the Egyptian resolution can have only one possible result, - and that will be to force all federal states which face this difficult constitutional problem to force them, whether they like it or not, into the same position that has been taken by the U.S.A., that they will not, because they cannot, sign the covenants in the absence of a federal state clause.

Now I know, that this is not in any way what our Egyptian colleague wishes to see happen. I accept without reserve the fact that he genuinely and sincerely believes that the federal state clause is not necessary. He has told us of his studies at Yale and at Harvard, and the conclusion he has reached that so far as the United States is concerned the federal state clause is not a sine qua non. That may very well be the case. I do not happen to be an expert in U.S. constitutional law. But we do know something about our constitutional position in Canada. That constitution is like the law of the Medes and the Persians. I invite Dr. Azmi to come to Canada, visit our Canadian universities, consult with the heads of the law faculties, and our great constitutional experts there, and to come to his own conclusions in this matter. If he accepts my invitation I guarantee him two things - (1) that he will receive a warm and hospitable welcome in my country and (2) that he will return completely convinced that in the absence of a federal state clause in the Human Rights covenants, it would be absolutely impossible, short of a drastic overhaul of its basic constitutional arrangements, for Canada to ratify the covenants.

This same difficulty does not, I should point out, apply to all international covenants or conventions. It depends entirely on the subject matter involved. Canada was able to sign and ratify the Genocide convention for example, because genocide is internationally recognized as a crime, and criminal matters under our Canadian constitution come within federal jurisdiction. Matters relating to property and civil rights however fall under our constitution exclusively within provincial jurisdiction: in accordance with this, our highest courts have already ruled that it is beyond the power of the federal authority, under our constitution, to enact legislation to implement certain ILO conventions back in the 1930's relating to legislation in the field of minimum wages and hours of work. Standards in such fields are maintained and guaranteed at a high level in Canada under provincial law. But the courts have ruled that they cannot be guaranteed by the federal authorities through an international instrument, since provincial fields of jurisdiction are sacrosanct and cannot be invaded under any pretext whatsoever by the federal authority.

If what I have said is true about the inviolability of provincial jurisdiction in the field of property and civil rights in Canada, it is even more true when we consider a matter such as education. This is an area of exclusive provincial jurisdiction in my country: the federal authority has no jurisdiction whatsoever. To this field above all others, the provincial governments attach supreme importance; they guard most jealously their exclusive jurisdiction in this field. How then can the federal authority of my country take upon itself the solemn international obligations which are contemplated by the covenants with respect to such matters as education and these others I have mentioned, when it is possessed of only partial or in some cases no constitutional authority to implement these undertakings.