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Chairman: Mrs. Mara RADIĆ (Yugoslavia).

AGENDA ITEM 54

Elimination of all forms of religious intolerance:

(b) Draft International Convention on the Elimination of All Forms of Religious Intolerance (continued) (A/6660 and Corr.1, A/6703 and Corr.1, chap. XII, sect. V; A/C.3/L.1456 to 1458, A/C.3/L.1463, A/C.3/L.1464, A/C.3/L.1469, A/C.3/L.1470, A/C.3/L.1475, A/C.3/L.1479 to 1486)

ARTICLE I (continued)

1. Mr. BEFFEYTE (France) said that identical treatment of believers and unbelievers was essential to the balance of the Convention. There was nothing ambiguous or equivocal about the word "belief", which it was clear from the definition given in article I, sub-paragraph (a) of the draft Convention (A/6660 and Corr.1, annex I), meant metaphysical beliefs, thus excluding political beliefs. He also pointed out that, where that word and the term "religion" were concerned, there already existed an established terminology in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights. In his view, the General Assembly could not reverse its course in that respect, but must adhere to the terminology used in international instruments already in force.

2. The Byelorussian SSR amendment to article I, sub-paragraph (d) (A/C.3/L.1464), related to a specific sphere, namely, discrimination in education, which was within the field of competence of UNESCO. In 1960, the General Conference of UNESCO at its eleventh session had adopted the Convention against discrimination in education, article 5 of which emphasized that the liberty of parents to choose for their children institutions other than those of the State and to ensure the religious education of the children must be respected. Similar provisions had been included in the International Covenant on Economic, Social and Cultural Rights. Thus, the question of religious discrimination in education was already codified in existing international instruments. As worded, the

Byelorussian amendment might be interpreted to mean that all schools, whether public or private, must be separated from religious organizations, or, in other words, that Churches should be prohibited from having their own educational establishments, with the result that parents would be deprived of the right to choose the education they wanted for their children. That would entail a serious danger of derogation from the provisions of the UNESCO Convention and of the International Covenant on Economic, Social and Cultural Rights. He pointed out that an even more restrictive interpretation of the principle of separation of the Church from education might lead to the prohibition of religious instruction itself, which only the Churches could guarantee. He therefore felt that the Byelorussian amendment might become a source of confusion which should be avoided. Lastly, he emphasized that there could be no genuine religious tolerance if educational freedom was entirely excluded. Consequently, his delegation would be unable to support the amendment.

3. Miss O'LEARY (Ireland) said that, in its amendments to article I, sub-paragraph (c) contained in document A/C.3/L.1482, the Bulgarian delegation appeared merely to attempt to define what was already defined in all dictionaries, namely, the term "intolerance". With respect to the proposal that the scope of the Convention should be limited to manifestations of intolerance reflected in actions, the Bulgarian delegation's position seemed to be that intolerance was only a mental concept and therefore could not be legislated against by States. It was necessary, however, to bear in mind other aspects of intolerance; for the State itself could have a tolerant or intolerant attitude which it was obviously in its power to change. It should also be borne in mind that, under article VI of the Convention, States did undertake to adopt measures to combat prejudices which led to religious intolerance. For those reasons, her delegation could not accept the limitation proposed by Bulgaria, and would vote against it and in favour of the sub-paragraph as it stood.

4. At the previous meeting the Czechoslovak delegation had objected to the same sub-paragraph because it defined religious intolerance in a manner inconsistent with the new title of the Convention which the Committee had adopted. However, it was exactly in order to make the term applicable both to adherents of a religion and to those whose beliefs did not include adherence to any faith that the definition in question had been adopted by the Commission on Human Rights. With regard to article I, sub-paragraph (d), the Byelorussian delegation had questioned the necessity of the phrase "the recognition of a religion or belief by a State"; that phrase was very necessary to cover

the case of countries like her own which had not an established religion but which did recognize certain religions.

5. With respect to the Byelorussian proposal that a reference should be made in article I, sub-paragraph (d), to the separation of schools from the Church (A/C.3/L.1464), she said that the wishes of the Irish people were reflected in a close Church-school relationship, and that religious communities played a constructive role in education. She recognized that in some cases separation of schools from the Church would not constitute discrimination, but in some cases it would; her delegation could not, therefore, accept that proposal.

6. Mr. KACHURENKO (Ukrainian Soviet Socialist Republic) said he still believed, as he had stated during the general debate, that the definition of religious intolerance might be redundant, and he disagreed with those delegations which found that definition satisfactory. In his view, religious, intolerance meant acts which would deny others their rights, and consequently their freedom of thought, conscience, religion and belief; manifestations of such intolerance could not occur until the relationships which produced them came into the open. He pointed out that religious intolerance could not be controlled so long as it consisted simply of thoughts; it was only when it was reflected in actions or in writings that it could be legislated against in an instrument of the kind which was before the Committee. In his view, if the definition of intolerance as it appeared in article I, sub-paragraph (c), was retained, it would be difficult to understand what it really meant.

7. He did not agree with the French delegation that the Byelorussian SSR amendment entailed serious dangers, because such a proposal could be viewed only in the context of article I, sub-paragraph (d). The matter was one which fell within the internal jurisdiction of States; consequently, the opposition of one group of countries to so balanced a text as that proposed by the Byelorussian delegation was tantamount to making it impossible for States which wished to do so to maintain the separation of schools from the Church; for in its present form the sub-paragraph would express only the views of a few countries which had a very particular conception of religion. His delegation was not opposed to the content of that clause, but it was necessary to strike a balance which would meet the needs of those States whose systems included the separation of the Church from education. The question was most important, since article I affected the interpretation of the remaining provisions of the Convention.

8. Mr. SAINT-REMY (Belgium) agreed with the statements made by the representative of France concerning the Byelorussian SSR amendment, which was out of place in the Convention, since the notion of separation of Church from State had no connexion whatever with separation of the Church from education; the latter would be tantamount to proclaiming a State monopoly in education and would clearly be a manifestation of religious intolerance. Indeed, even in a State in which there was no separation between the public authorities and a particular Church, to accept such a monopoly might be a manifestation of

intolerance with regard to other religions or beliefs. His delegation could not accept the amendment, because it considered it to be contrary to the principles adopted in the preamble, and also because adoption of it would conflict with article IV of the Convention, which prescribed respect for the right of parents to bring up their children in whatever religion or belief they wished.

9. He agreed with the amendment submitted by Pakistan (A/C.3/L.1480), although he believed that the proposed change related primarily to the English text.

10. Mrs. AFNAN (Iraq) expressed concern at the way in which the consideration of the draft Convention had proceeded. When the General Assembly had requested the Commission on Human Rights and the Sub-Commission on Prevention of Discrimination and Protection of Minorities to prepare the draft, it had not indicated clearly what it wanted. The Sub-Commission had therefore found the task practically impossible. A definition of "religion" had had to be given, and the Sub-Commission had then noted that it would be necessary to include the notion of "belief", in order to allow for the fact that there were large areas of the world where the people did not profess any religion. There had also been difficulties with the concept of "intolerance", since intolerance existed before it was manifested in actions or persecutions. As a result of those difficulties, the Committee, in considering the draft, had been talking about something like freedom of conscience. Perhaps the experts should have admitted that it was not possible to draw up a draft convention on religious intolerance. In any event, the draft which the Committee had before it dealt, rather, with discrimination on religious grounds.

11. Her delegation had pressed for the retention, in the preamble of the draft, of the idea that religion was a fundamental element in the believer's conception of life. If the delegation of the Ukrainian SSR was now saying that separation of the Church from schools did not constitute discrimination, that should also be accepted. If the draft Convention was to be adopted, a number of unclear concepts would have to be accepted, without attempting to be very logical, since there was no logic in such matters.

12. Her delegation considered it doubtful, in any event, that a convention on religious intolerance could be adopted. The votes taken had been very divided, and there had been diametrically opposite opinions in the Committee. Her delegation accepted the existing text of article I as it stood, until such time as a definition which it found more satisfactory was forthcoming. Lastly, she did not see how her delegation could refuse to agree to the Byelorussian amendment when its sponsor had agreed that the actual situation in Iraq should be reflected.

13. Mr. BAHNEV (Bulgaria) said that the definition of "religion or belief" in article I had not been taken from an encyclopaedia but had been drafted for the purpose of the Convention, as indicated by the opening words of the article. As for his third amendment to sub-paragraph (c), while he did not claim that it was semantically impeccable, it had been necessary to state that the Convention related only to actions contrary to the provisions of the Convention itself;

his delegation's aim had been to improve the text of article I. His second amendment to sub-paragraph (c), which proposed that the words "manifestations of intolerance" should be used instead of "intolerance", really added nothing new but simply expressed clearly something which was implicit in the original text. The Convention should relate to intolerance which was manifested in overt acts. The Irish delegation had said that the Convention should also relate to attitudes, but that aspect was already dealt with in articles II and XII of the draft Convention.

14. Mr. BECK (Hungary) said that article I, sub-paragraph (d), of the draft posed a serious problem for his delegation. It was asserted in that sub-paragraph that the establishment of a religion by a State did not by itself constitute religious intolerance. However, while that might be so in theory, he did not know of any actual case in which such a thing had not meant discrimination, even if to a minor extent. There were some matters one did not put to a vote because they were established facts in certain countries, which the Committee's vote could not change. Thus, there were a number of States which had an official religion. Although his delegation did not consider that situation very just, it had decided not to request any change in the wording of article I, sub-paragraph (d), which asserted that the establishment of a religion by a State did not constitute intolerance.

15. Such respect for established facts in certain countries required, however, that those countries should in turn respect the position of others. The representative of Belgium had said that acceptance of the Byelorussian SSR amendment would mean recognition of a State monopoly in education. His delegation did not think that that was so; the Byelorussian amendment did not mean that only the State had the right to teach. In Hungary, education was a State monopoly, but parents could choose to give their children religious instruction, since the churches had the right to teach their religion, although they did not have the right to provide any other kind of education.

16. His delegation accepted the statement that the establishment of a religion by a State did not constitute discrimination, not because it believed it, but because many delegations did. In that context, it appreciated the statement made by the representative of Iraq who had shown a tolerant attitude. There would indeed be logical contradictions in the Convention, but they would reflect the contradictions of reality. His delegation and those which shared its views could not support the wording on the establishment of a religion by the State unless the delegations advocating that wording accepted the text proposed by the Byelorussian SSR concerning separation of the Church from education.

17. Mr. SPERDUTI (Italy), referring to the Bulgarian amendments to article I, sub-paragraph (a), said that his delegation had explained the reasons why the word "non-theistic" had been included during its statement in the general debate. It could not, therefore, support those amendments. His delegation, like others, was not entirely satisfied with the present wording of article I, sub-paragraph (a), but it must be remembered that the Commission on Human Rights

had simply sought to give a definition of the words used in the draft Convention, and in that respect sub-paragraph (a) was useful. The Commission on Human Rights had perhaps gone too far in placing religion and belief on the same level; his delegation would have preferred sub-paragraph (a) to refer only to "belief", since that was the word which was used ultimately to define religion in the draft, but it had no difficulty in accepting the text as it stood, in view of the legal and political reasons which had been put forward.

18. With regard to the first Bulgarian amendment to article I, sub-paragraph (c), his delegation could not take any very strong view because that sub-paragraph had been adopted by the Commission on Human Rights at a time when the title had been more general than it had now become as a result of the changes made by the Committee. Since an attempt was made in those sub-paragraphs to explain the sense in which the fundamental terms of the draft Convention were used, it might be better if the Committee took no decision on sub-paragraph (c) for the time being. As for the other two Bulgarian amendments to sub-paragraph (c), he did not agree that it was advisable to add the words "manifestations of". As he had said in the general debate, intolerance as a state of mind was regrettable, and efforts should be made to eliminate it. In order to put an end to overt manifestations of intolerance, one must first do away with that state of mind. The fifth preambular paragraph and article VI of the draft urged States to eliminate intolerance as a state of mind. The Convention should relate to intolerance in all its forms.

19. His delegation accepted the amendment submitted by Pakistan (A/C.3/L.1480).

20. He had been unable to grasp the exact meaning of the Byelorussian SSR amendment (A/C.3/L.1464), since, according to its wording, the fact that the State prohibited churches from engaging in any kind of teaching activity would not be considered a manifestation of intolerance. It was one thing to authorize States, in article XII, to prescribe such limitations as were necessary to protect public safety, and another, quite different thing, to deprive the Church of its right to teach. In that connexion, he agreed with the comments of the representatives of France, Ireland and Belgium, and would add that article 18 of the International Covenant on Civil and Political Rights guaranteed parents the liberty of ensuring the religious and moral education of their children in conformity with their own convictions. Consequently, he could not accept a proposal such as that made by the Byelorussian SSR which would conflict with the provisions of another United Nations instrument.

21. Mrs. KUME (Japan) said it was her understanding that the separation of Church from State in the field of education meant, in the context of article I the separation of religion and education. If freedom of religion was guaranteed, however, the right of churches to establish schools and to provide education must be recognized. Therefore, while sympathizing with the idea underlying the Byelorussian SSR amendment, her delegation would not support it.

22. Mrs. STEVENSON (Liberia) said that she had no difficulty in supporting the amendment submitted by Pakistan. On the other hand, it considered the Bulgarian amendments to article I somewhat confused and preferred the original wording of the draft.

23. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said, with reference to the Byelorussian SSR amendment, that the separation of Church from State and the separation of education and the Church were fundamental principles of the Soviet system, incorporated in his country's Constitution. Education in the Soviet Union was a State monopoly, and religious instruction was not permitted in the schools. However, there was nothing to prevent the churches from organizing their own seminaries and explaining religious doctrines in them in order to train future priests. It should also be remembered that article I, sub-paragraph (d), of the draft Convention did not impose on States any obligation to acquiesce in principles that were contrary to their convictions; it simply listed certain examples of actions which were not considered religious intolerance. Thus, the Soviet Union did not accept the principles of a State religion, but it did not object to a statement in the draft that such a case did not constitute an instance of religious intolerance. Therefore, it was essential to adopt the amendment proposed by the Byelorussian SSR particularly as some representatives had asserted that the separation of Church and education involved discrimination of a certain kind.

24. He considered that the Bulgarian amendments to article I, sub-paragraph (c), would be very conducive to the effective application of the Convention, since the latter was directed to States, and only States could regulate the overt behaviour of individuals.

25. Mr. BAROODY (Saudi Arabia) said that the number of amendments submitted was an indication of the complexity of the subject and showed that it would have been advisable to prepare a declaration first.

26. He considered the list in article I, sub-paragraph (a), of the draft too restrictive, since it excluded religions very different in substance from the ones that were mentioned, such as those which made devil worship the principal object of their belief, and many others. Nor did he consider certain of the sub-paragraphs of article III to be satisfactory, and it was to be hoped that that article would give rise to as many, or more, amendments.

27. Consequently, as it was impossible for the Committee to deal adequately with the draft during the limited time available to it, he suggested that it should break off its article-by-article study of the draft and refer to the text back to the organ from which it came; if the latter did not succeed in producing a more

viable wording, it could perhaps draw up a draft declaration.

28. Mr. SPERDUTI (Italy), referring to his statement at the current meeting, said he wished to make it clear that he had not intended to refer to the situation in the Soviet Union or in other States but had simply meant that the idea of separation of the Church from education proposed by the Byelorussian SSR had no place in the Convention, since it would authorize States to prohibit teaching by the Churches, including teaching in seminaries. He could not, therefore, support that amendment, and he stressed that the meaning which the words suggested in that proposal might have in the Constitutions of certain States was the affair of those States and that, in speaking of the matter, he had had in mind only the scope of the Byelorussian amendment as an international text.

29. Mr. HOVEYDA (Iran) said that he did not see how the Bulgarian amendments could improve article I, sub-paragraph (a). Nor did he understand the Syrian amendments in document A/C.3/L.1484 to that sub-paragraph, since the adjective "metaphysical", applied to beliefs, added nothing new to the document. The deletion of the word "religious" in sub-paragraph (c), as proposed by Bulgaria, seemed to be pointless, since the reference was to religious intolerance and not to any other form of intolerance. On the other hand, there was some logic in the idea of referring to manifestations of intolerance in the same sub-paragraph, but he wondered whether such a reference was really necessary, since it seemed obvious that a convention of that kind could only refer to manifestations of intolerance. On the other hand, the third Bulgarian amendment to sub-paragraph (c) would be a useful clarification. With regard to the Syrian amendment to article I, sub-paragraph (c) he considered the original text better, since the Syrian proposal restricted the scope of intolerance. The Pakistan amendment to sub-paragraph (d) seemed to be appropriate, and he would vote for it. He could also vote in favour of the Byelorussian amendment, but he did not see the need for that change. Concerning the Ugandan amendment (A/C.3/L.1485), he pointed out that the idea proposed would lead to categories which were too broad and that it would be necessary to define what was meant by a supernatural being; consequently, he would not take a position on that amendment until he had received further clarification.

30. The suggestion made by the Saudi Arabian delegation should have been submitted at the beginning of the debate on the draft Convention; for if the Committee were to act on it at the present stage it would be confronted with a dilemma, since it had already adopted the preamble. He was therefore opposed to that suggestion.

The meeting rose at 6.15 p.m.