

United Nations  
**GENERAL  
ASSEMBLY**

TWENTY-SIXTH SESSION

Official Records



**THIRD COMMITTEE, 1860th  
MEETING**

Friday, 5 November 1971,  
at 3.15 p.m.

NEW YORK

**Chairman:** Mrs. Helvi SIPILÄ (Finland).

*In the absence of the Chairman, Mr. Mahmassani (Lebanon), Vice-Chairman, took the Chair.*

**AGENDA ITEM 54**

**Elimination of all forms of racial discrimination (continued)** (A/8367 and Corr.1 and 2 and Add.1 and 2, A/8403, chap. XVII, sects. B and F; A/8418, A/8439, A/C.3/L.1871 to 1875):

- (a) **International Year for Action to Combat Racism and Racial Discrimination: report of the Secretary-General;**
- (b) **Report of the Committee on the Elimination of Racial Discrimination;**
- (c) **Status of the International Convention on the Elimination of All Forms of Racial Discrimination: report of the Secretary-General**

**CONSIDERATION OF DRAFT RESOLUTIONS**  
(continued)

1. Mr. AHOUANSOU (Dahomey) said that although some representatives felt that draft resolution A/C.3/L.1872 contained nothing that was not stated in draft resolution A/C.3/L.1874, he considered that the two drafts were mutually complementary. His delegation therefore wished to become a sponsor of draft resolution A/C.3/L.1872.

2. Mr. SABIK (Poland) said he wished to comment on the draft convention on the suppression and punishment of the crime of *apartheid* (A/C.3/L.1871) and on draft resolution A/C.3/L.1874.

3. The draft convention was indeed a logical further step towards practical action against *apartheid* and was also a stage in the process, begun in the 1940s, of establishing norms of international law for the prevention and punishment of crimes against humanity; in view of the humanitarian aspects of the question, the Third Committee was certainly competent to deal with the matter, but it was obviously impossible for it to examine the draft at the current session. His delegation therefore supported the proposal (A/C.3/L.1875) that the draft should be referred to the Commission on Human Rights and the Economic and Social Council for further study.

4. His delegation supported draft resolution A/C.3/L.1874 because it covered the entire field of agenda item 54 and reflected the whole general debate on the subject. Nevertheless, it had some reservations concerning section II, paragraph 4, of that text. Poland had always advocated the establishment of norms of international law for the

prevention and punishment of crimes against humanity, past and present, and had actively supported the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, the adoption of which had marked an important stage in that process; but it had been concluded on a number of occasions that it was not yet possible to examine the question of establishing international jurisdiction, and the Committee should not entrust such a task to the Commission on Human Rights. He therefore suggested to the sponsors that the words "establishment of an international jurisdiction" in section II, paragraph 4, should be replaced by "further elaboration of international instruments".

5. The CHAIRMAN announced that the People's Republic of the Congo wished to become a sponsor of draft resolution A/C.3/L.1874.

6. Mr. MOHAMMED (Nigeria) observed that paragraph 4 of section II of draft resolution A/C.3/L.1874 was of the utmost importance. There were many resolutions in which the United Nations condemned *apartheid*, called upon countries to halt trade with South Africa and denounced *apartheid* as a crime against humanity, but no provision had yet been made for dealing on an international basis with the perpetrators of crimes committed in States which practised the policy of *apartheid*. States parties to the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity undertook, under article IV of that instrument, to adopt legislative measures to ensure that statutory limitations should not apply to the punishment of the crime of *apartheid*, but the measures to be taken under that article were purely internal. The language of articles III and V of the draft convention in document A/C.3/L.1871, while relevant to the problem, likewise did not go far enough. He therefore urged that operative paragraph 4 of draft resolution A/C.3/L.1874 should be retained and that the Commission on Human Rights should be given the widest possible latitude in making recommendations for the establishment of an international jurisdiction.

7. Mrs. BARISH (Costa Rica) said that her delegation had become a sponsor of draft resolution A/C.3/L.1872, which was the only truly comprehensive text before the Committee. She welcomed that draft resolution for several reasons: firstly, because it stressed the importance of the activities undertaken during the International Year and enumerated further suggestions calculated effectively to combat racial hatred and discrimination; secondly, because it pointed to the fact that racial discrimination had many causes, including prejudice, hatred and ignorance; thirdly, because it covered all types of discrimination—it was important to remember in that connexion that racial hatred

existed not only between whites and blacks but between many ethnic groups and within ethnic groups as well.

8. Turning to the draft convention (A/C.3/L.1871), she stated that reference to the Universal Declaration of Human Rights should be made early in the preamble, immediately after the reference to the Charter of the United Nations. She called for a clause urging States to ratify promptly the International Covenants on Human Rights, since it was as important to ensure that the provisions of existing instruments were put into effect as it was to draw up new ones.

9. Mrs. MARICO (Mali) observed that during the past 10 years her country's position with regard to the item under review had been stated clearly in the General Assembly, where Mali had consistently condemned the inhumanity of racial discrimination and *apartheid*. Her delegation supported the draft convention (A/C.3/L.1871) and intended to become a sponsor. With regard to draft resolution A/C.3/L.1874, of which her country was already a sponsor, she was confident that all delegations understood the considerations on which it was based. It was indeed high time for the international community to demonstrate more emphatically its awareness of the sufferings caused by racism by mobilizing a concerted and sustained attack on those responsible.

10. Miss PRODJOLALITO (Indonesia) said that draft resolution A/C.3/L.1874 deserved the fullest support. In it the General Assembly would rightly express the conviction that any doctrine based on ethnic or religious superiority was scientifically false, and would reaffirm its support of the struggles of patriotic movements against colonial, racial and foreign domination. It further called for measures calculated to bring pressure to bear on the racist régimes on the African continent. Draft resolution A/C.3/L.1872 was likewise acceptable to her delegation as it provided for continuing activities to combat racial discrimination. It also requested the Secretary-General to prepare a report on measures taken by United Nations organs to be submitted at the twenty-seventh session, thus ensuring that attention would continue to be paid to devising ways of eliminating racial discrimination and hatred.

11. Mr. ALVAREZ TABIO (Cuba) said that his delegation supported the idea of a convention on the crime of *apartheid* but that the Spanish text of article V of the draft before the Committee (A/C.3/L.1871) was incomprehensible: the word "*celebrar*" should presumably be replaced by "*participar*". In any case, the Committee did not have time to study the draft with the necessary care and he therefore supported draft resolution A/C.3/L.1875, which recommended that the Commission on Human Rights and the Economic and Social Council should submit a text to the General Assembly at its twenty-seventh session. Draft resolution A/C.3/L.1872 seemed to be incomplete and his delegation could not vote in favour of that text. It would support draft resolution A/C.3/L.1873. Draft resolution A/C.3/L.1874 was a vigorous and comprehensive text, and it too would have his delegation's support; nevertheless he had serious reservations concerning section II, paragraph 4, which had already been mentioned by the Polish and Nigerian representatives. In the first place, the words "international jurisdiction" could only mean some kind of

international court, but consideration of the problem of the establishment of an international criminal court had been deferred until a definition of aggression could be agreed upon. Cuba could not accept an international jurisdiction which would mean a limitation of State sovereignty. Secondly, the question of crimes against humanity included many aspects unrelated to the subject with which the Committee was dealing and the Commission on Human Rights had been studying those aspects since 1948. Accordingly, the paragraph in question should refer specifically to racial discrimination and *apartheid* as crimes against humanity. Perhaps the Commission could study the possibility of an international instrument which would define and condemn *apartheid* as a crime against humanity.

12. Mr. HEYMAN (Sweden) said that at a time when the Committee was faced with a proposal under item 54 (A/C.3/L.1875) involving the text of a draft convention on the suppression and punishment of the crime of *apartheid*, the Special Political Committee was dealing comprehensively with an item on the policies of *apartheid* of the Government of South Africa. His delegation found it inappropriate that a proposal specifically relating to *apartheid* should be put forward in the Third Committee rather than being submitted under the item dealing with that grave problem. Such unco-ordinated approaches would lead to confusion. In the draft convention (A/C.3/L.1871) *apartheid* was branded as a crime against humanity, whereas in the draft resolution submitted by a number of delegations in the Special Political Committee<sup>1</sup> it was described as a crime against the conscience and dignity of mankind. Such discrepancies were the inevitable result of the same question being dealt with in two different contexts. Moreover, the Third Committee would also be discussing the punishment of war criminals and persons committing crimes against humanity in relation to the Secretary-General's report on that subject submitted under agenda item 56 (A/8345). Resolution 8 (XXVI) of the Commission on Human Rights requested the *Ad Hoc* Working Group of Experts established under its resolution 2 (XXII) to study *apartheid* from the point of view of international penal law; was that study to be replaced by the present proposal?

13. The work that the International Law Commission had done in the past on defining war crimes and crimes against humanity had been suspended a few years earlier pending progress in efforts to define aggression. Sweden believed there were several reasons why the International Law Commission should again take up a comprehensive study of all problems concerning war crimes and crimes against humanity, with the exception of crimes relating to aggression, since there was still no agreement on defining aggression. It would be confusing if the International Law Commission studied some international crimes, such as hijacking, attacks on diplomatic representatives and war crimes, while the Commission on Human Rights studied others. Lack of co-ordination in that field would lead to inconsistencies in dealing with substantive problems, including that of *apartheid*. Sweden accordingly could not support the draft resolution in document A/C.3/L.1875. His delegation considered it high time that the General Committee should undertake to bring some procedural

<sup>1</sup> Subsequently adopted by the General Assembly as resolution 2764 (XXVI).

order and co-ordination into the activities of the various bodies, so as to avoid duplication and inconsistencies.

14. Mr. MOHAMMED (Nigeria) said that the Swedish representative seemed to be questioning the Third Committee's competence to discuss *apartheid*. The question of the competence of various United Nations bodies was one that not even the General Committee could settle, particularly with respect to such multi-dimensional problems as that of *apartheid*. The Special Political Committee was dealing with it from the political standpoint, while the Third Committee was concerned with racial discrimination and other social problems. As *apartheid* was based specifically on racial discrimination, it could not be asserted that the Third Committee was not competent to discuss *apartheid*. The Special Committee on *Apartheid* had referred the question of the torture of political prisoners in South Africa to the Commission on Human Rights; obviously the Commission could not discuss that without discussing various aspects of *apartheid*. There was now universal verbal condemnation of *apartheid*, but the time had come to go further, and take some positive action to eliminate it.

15. In reply to the representative of Cuba, he said that paragraph 4 of section II of resolution A/C.3/L.1874 did

not specifically refer to *apartheid* because it had already been referred to in paragraph 1 of that section. As the whole resolution dealt with racial discrimination and *apartheid*, there was no need for a specific reference to *apartheid* in paragraph 4 of section II.

16. Mr. SAFRONCHUK (Union of Soviet Socialist Republics) said he agreed with Nigeria that Sweden was trying to restrict the competence of the Third Committee. The Committee had already spent much time discussing the evil consequences for the peoples of South Africa and Namibia of the criminal policy of *apartheid* carried out by Pretoria. The time had come to take practical measures to eliminate that policy and ensure punishment for those applying it. The draft convention submitted by Guinea and the Soviet Union (A/C.3/L.1871) was a practical step in the right direction. He had no objection to the draft being transmitted to the Economic and Social Council and the Commission on Human Rights. The General Assembly, which had a heavy agenda at the current session, could take up the question at the twenty-seventh session after it had been discussed by the Third Committee.

*The meeting rose at 4.25 p.m.*