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Chairman: Mrs. Mara RADIĆ (Yugoslavia).

AGENDA ITEM 58

International Year for Human Rights (concluded):

- (a) Programme of measures and activities to be undertaken in connexion with the International Year for Human Rights: report of the Secretary-General (concluded) (A/6687, A/6866 and Add.1);
- (b) Report of the Preparatory Committee for the International Conference on Human Rights (concluded) (A/6354, A/6670 and Corr.1)

1. Mr. FONSECA (Brazil), explaining his vote, said his delegation thought it highly important that the greatest possible number of non-governmental organizations should attend the International Conference, and he had therefore voted for the joint draft resolution (A/C.3/L.1501/Rev.1), in its amended version, and had opposed all the amendments aimed at reducing the number of participating organizations. His delegation had also been unable to support proposals that States not mentioned in the joint draft resolution should attend the Conference, for it considered that the Third Committee should not establish a dangerous precedent in that connexion.

2. Mr. NAKAMURA (Japan) stated that his delegation was in favour of inviting to the Conference those non-governmental organizations whose activities were connected with the promotion of human rights, and it hoped that those which did attend would contribute to the widest dissemination of the achievements of that important meeting; at the same time, such organizations should not take up too much of the Conference's

time. Those were the reasons why his delegation had voted against the amendment which unduly limited the participation of non-governmental organizations (A/C.3/L.1505/Rev.2) and had abstained from voting on the proposal of the United Kingdom and the Democratic Republic of the Congo (A/C.3/L.1507/Rev.1). As far as that last proposal was concerned, his delegation had been afraid that, if the Conference were to give the floor to one non-governmental organization, the President of the Conference might find it rather difficult to refuse the floor to other organizations which requested it. His delegation had also abstained from voting on the sixteen-Power amendments (A/C.3/L.1502) regarding the participation of those organizations, for it had preferred the corresponding provisions of the joint draft resolution.

3. As to paragraph 1 of the amendments submitted by Hungary and the Ukraine, his delegation considered that the question of the participation of States in the Conference was a political matter and should be decided upon by other United Nations organs. It had also voted against the amendment to the draft rules of procedure for the Conference (A/6670, annex I) which was proposed in document A/C.3/L.1513, since it maintained that decisions affecting human rights should, in view of their importance, be adopted by at least a two-thirds majority.

4. Miss MENESES (Venezuela), explaining her vote, said her delegation had been guided by the wish to retain, as far as possible, the original text of the joint draft resolution, which duly recognized the great work done by the Preparatory Committee, especially on the draft provisional agenda for the Conference (A/6670, annex II). It had therefore voted against all the amendments involving changes in the draft resolution.

5. She felt that the provisions of General Assembly resolution 2217 C (XXI) on the participation of States and non-governmental organizations in the Conference were well-balanced and consistent with normal United Nations practice. The criterion proposed by Hungary and the Ukraine for the participation of States would have caused legal problems, and her delegation had therefore voted against it. As far as the participation of the regional inter-governmental organization was concerned, her delegation had supported the criterion contained in operative paragraph 7 of the joint draft resolution and had spoken in favour of inviting the Organization of American States, which had an undeniable right to attend the Conference by reason of its status as a regional organization in accordance with the United Nations Charter, and by reason of its concern with human rights. The same applied to the Council of Europe.

6. Mr. SAYAR (Iran) said that for the reasons it had given during the debate, his delegation had abstained from voting on all the amendments to the joint draft resolution and on the operative paragraphs of that resolution which related to the International Conference on Human Rights. Moreover, his country, as host country, had abstained from expressing any view as to the status of the participants, and would accept the decisions taken on that subject by the General Assembly.

7. He repeated that his delegation found the draft provisional agenda drawn up by the Preparatory Committee (A/6670, annex II) satisfactory, since it covered all the questions that were to be examined at the Conference. Consequently there was no need to explain the various items in detail, as had been advocated in some of the amendments withdrawn.

8. Mrs. AFNAN (Iraq) stated that, in principle, her delegation favoured the participation in the Conference of non-governmental organizations, since it believed that they would, after the Conference had ended, be able to make a substantial contribution to the dissemination of its achievements. She pointed out that the Preparatory Committee had been unable to reach any decision on that matter, and that the criteria established by the sponsors of the joint draft resolution for the participation of those organizations, namely, that they should be in consultative status with the Economic and Social Council and have a demonstrable interest in the items on the provisional agenda, as provided for in operative paragraph 8, were not satisfactory. On the one hand, they had not specified by whom, and in what manner, that interest was to be judged and demonstrated and, on the other, they had not indicated how such organizations were to be selected. Her delegation would like to see the Conference attended by several of those organizations, excluding those which operated as pressure groups, so that they could co-operate effectively in action to promote universal respect for and observance of human rights.

9. The draft resolution had also failed to indicate who was going to assume responsibility for the non-governmental organizations which attended the Conference. It was for those reasons that her country, together with the sponsors of the amendment contained in document A/C.3/L.1502, had proposed certain selective criteria which would guarantee a really effective contribution by non-governmental organizations to the success of the Conference. Nevertheless, as a result of the procedure applied in democratic institutions, that proposal had been rejected by the Third Committee by 43 votes to 43, with 17 abstentions, and the door had thus been left open to all organizations that were in consultative status with the Economic and Social Council and had a demonstrable interest in human rights, an interest which could obviously be demonstrated only by the organizations themselves. Some delegations had pointed out that those organizations represented the peoples, but it was impossible to speak of such representation when whole nations which constituted a very large part of the world's population had been excluded from the Conference.

10. For all those reasons, her delegation had been obliged to vote against the joint draft resolution in its amended version.

11. Mr. BENAYADA (Algeria) said that, during the general discussion on the item, some delegations had spoken in favour of the participation of non-governmental organizations in the International Conference, in view of the universal nature of human rights; his delegation would not have opposed their participation if the objectives of those organizations had satisfied his country's concern for the promotion of human rights. It was paradoxical, however, that those same delegations had denied the same opportunity to the representatives of hundreds of millions of human beings. By their refusal to permit some States to take part in the Conference, they had introduced political elements into the discussion. For those reasons his delegation had abstained in the vote on the amended joint draft resolution as a whole. On the other hand, in accordance with the principle of the universality of human rights, it had not hesitated to confirm the invitation addressed to regional inter-governmental organizations such as the Council of Europe and the Organization of American States, despite the fact that not all European States were members of the former, and that the latter had deliberately expelled the Republic of Cuba.

12. Mr. NASINOVSKY (Union of Soviet Socialist Republics) said that his delegation, like many others, was disappointed at the text of the draft resolution approved by the Committee at its 1545th meeting. He pointed out that his delegation had taken an active part in all phases of the preparations for the International Conference on Human Rights, since it wanted that important meeting to be properly organized, so that the participants might work in a satisfactory atmosphere and draw up a constructive programme for future human rights activities. Unfortunately, there were delegations in the Committee which wished to convert the Conference into a political battlefield; in the matter of the participation of non-governmental organizations, votes had been evenly divided between the opposing camps. No one could be happy about that situation in a matter of such importance, since the United Nations had always endeavoured to achieve unanimity or virtual unanimity on fundamental matters.

13. He pointed out that the draft resolution, as approved, had left two major questions undecided. In fact, in the case of the participation of States in the Conference, a retrograde step had been taken as compared with the preceding year's decision, since all proposals designed to ensure the universality of the Conference had been rejected.

14. With reference to the participation of non-governmental organizations, he said that the application of the provisions of operative paragraph 8 of the joint draft resolution might result in the sending of invitations to anti-Soviet organizations of a well-known type, whose members were political refugees. In such circumstances, his delegation could not remain silent; it would have to ascertain on whose behalf the organizations were acting and who was meeting the costs of their activities. If that occurred, there would be

political arguments instead of a meeting on human rights, and that would be deplorable.

15. He said that the Committee had had before it definite proposals for inviting a group of non-governmental organizations, for some of them could genuinely contribute to the promotion of human rights. The task of selection was the responsibility of the Third Committee, which could have established, and had had every opportunity of establishing, an *ad hoc* committee for the purpose, but had not done so. His delegation considered that while some parts of the joint draft resolution were useful, others—of a fundamental nature—made the document valueless. He had therefore been unable to vote for it.

16. Mr. BASHIER (Sudan) said that, although his delegation had supported the preamble and operative paragraphs 1 to 7 of the draft resolution approved earlier, it had voted against the draft resolution as a whole, because it had been unable to accept operative paragraphs 8 and 9 on the important question of the participation of non-governmental organizations. On that question, which had been the central theme of the discussion, delegations, which, like his own, had originally been opposed to any participation by those organizations, had subsequently modified their position and come to support a limited participation. He could not agree to the kind of participation for which the draft resolution made provision, since he did not wish the International Conference on Human Rights to become a political battlefield for the non-governmental organizations.

17. Miss LOPES (Portugal) said that her delegation had voted in favour of the draft resolution as a whole, although it had abstained on the preamble, because of its reservations regarding the amendments contained in documents A/C.3/L.1506/Rev.3 and A/C.3/L.1513.

18. Mrs. OULD DADDAH (Mauritania) said that her delegation had abstained in the vote on the draft resolution as a whole because, in the first place, it could not agree to the exclusion of non-governmental organizations which, though not enjoying consultative status, were directly concerned with human rights, such as the anti-apartheid organizations; and in the second place, it did not see what point there was in mentioning consultative status at all, since under Economic and Social Council resolution 1225 (XLII), the position of all non-governmental organizations was being reviewed. She did not understand the interest of certain delegations in having all non-governmental organizations invited, when those same delegations had denied States which represented almost one-third of mankind the right to participate in the Conference. Moreover, the criteria applied were incomplete and unjust, since they excluded organizations, formed in young countries, which had not yet been recognized. She regretted the manner in which the industrialized countries had approached the question. Her delegation had hoped that the Conference would give special attention to the problems which had the most serious effects on human rights, such as *apartheid*, colonialism and racism; if that hope could not even be entertained, to speak of human rights was futile and improper.

19. Mr. SABIK (Poland) said that his delegation had abstained in the vote on the draft resolution as a whole, because it did not take into account the basic principle of the Universal Declaration of Human Rights, universality, and because the paragraphs relating to non-governmental organizations were not in accordance with the principle of equitable geographical and political representation. He wished to draw attention, however, to the importance of the new operative paragraph, which indicated that the Conference on Human Rights to be held in Teheran would "devote particular attention to the adoption of measures to ensure the immediate elimination of all forms of racial discrimination, *apartheid* and colonialism". That new paragraph explained the meaning of the words "demonstrable interest in the items of the provisional agenda" in paragraph 10 which concerned non-governmental organizations having consultative status with the Economic and Social Council. His delegation hoped that the Preparatory Committee and the Secretariat would take into consideration what those paragraphs had in common. He hoped that only those non-governmental organizations which had a direct interest in the matter would be invited. His delegation would continue its efforts to ensure that the Conference could do its work constructively, and it assured the Secretariat of its co-operation for that purpose. It would not, however, agree to the Conference becoming a political battlefield in matters of secondary importance. In conclusion, he supported the proposal of the Indian delegation that the difference of opinion which had become obvious in the discussion of the item should be reflected in the Committee's report.

20. Mr. SQUIRE (United States of America) said that his delegation had abstained on the amendment in document A/C.3/L.1506/Rev. 3 concerning *apartheid* and colonialism solely because the provisional agenda of the Conference already covered those subjects. Operative paragraph 8 of the draft resolution, it should be noted, had been adopted by 48 votes to 32 with 8 abstentions. His delegation had voted in favour of distinguishing between organizations with consultative status and other non-governmental organizations, because non-governmental organizations in consultative status had gone through a process of selection and had made a considerable contribution to the work of the United Nations. Economic and Social Council resolution 1225 (XLII) did not suspend the status of any non-governmental organization, so that until the review at present under way was completed, organizations with consultative status would continue to have the same rights and obligations as they had had before the adoption of the resolution. Paragraph 9 of the draft resolution adopted by the Committee included criteria for inviting non-governmental organizations without consultative status. Finally, he expressed the hope and confidence that all non-governmental organizations attending would behave in a responsible and constructive manner and make a distinctive contribution to the Conference.

21. Miss FERRINGA (Netherlands) said that her delegation had voted in favour of operative paragraph 10 on the understanding that the restriction of the rights of non-governmental organizations would not be taken as a precedent.

22. Mrs. KULAKOVSKAYA (Byelorussian Soviet Socialist Republic) said that although she had abstained on the draft resolution as a whole, her delegation attached exceptional importance to the International Year for Human Rights, which should not be confined to ceremonies and celebrations, but should also be a year dedicated to constructive work on behalf of human rights. The presence of genuine representatives of all States would have made it possible to deal better with all problems of human rights at the Conference but, unfortunately, the Hungarian-Ukrainian amendments (A/C.3/L.1505/Rev.2) had been rejected by a small margin. At the same time, the Committee had opened the doors of the Conference to all non-governmental organizations, taking the opposite view from her delegation, which had been in favour of limited participation, with equitable representation of the different geographical regions and social and legal systems in the world.

23. Mr. BABAA (Libya) said that, for reasons beyond his control, he had not been able to take part in the voting, but that if he had he would have voted for amendment A/C.3/L.1513. He would also have voted for the deletion of operative paragraph 8 of the draft resolution, because his delegation had been a sponsor of the amendments in document A/C.3/L.1502, by which non-governmental organizations from Africa and Asia would have been permitted to participate. Most non-governmental organizations were not really non-governmental, because they were financed by certain States. Some of them, such as B'nai B'rith, had been set up, not in order to defend human rights, but to interfere in the internal affairs of developing countries. They served the cause of colonial exploitation, military occupation and the principle of racial superiority. As a result of the draft resolution adopted, the Conference would become a meeting of non-governmental organizations and would no longer be a true international conference. For those reasons, his delegation had voted against the amendments of the Democratic Republic of the Congo and the United Kingdom (A/C.3/L.1507/Rev.1).

24. Mr. VASS (Hungary) said that his delegation had abstained on the draft resolution, considering it discriminatory and restrictive, since it barred States with a third of the world's population from participating. Many of the non-governmental organizations which had been given the opportunity to take part had very dubious reputations and would only try to be provocative and create disorder. It was unfortunate that the Committee had not adopted the amendment (A/C.3/L.1505/Rev.2) by means of which his delegation had sought to avoid that situation. In his opinion, it was significant that those who had argued most strongly in favour of the participation of non-governmental organizations had been the same as those who had opposed participation by all States.

25. Mr. PIPARSANIA (India) said that his delegation, much to its regret, had had to vote against the four-Power draft resolution, because it held that, in accordance with the consensus reached in the Preparatory Committee, the participation of non-governmental organizations in the International Conference should

be restricted. For the same reason, his delegation had also had to vote against the amendments of the Democratic Republic of the Congo and the United Kingdom (A/C.3/L.1507/Rev.1). His delegation's negative vote was also due to the fact that the draft resolution did not elaborate the point that the consultative status of non-governmental organizations lay in suspense in view of Economic and Social Council resolution 1225 (XLII). It was in view of these facts that his delegation had co-sponsored the sixteen-Power amendments (A/C.3/L.1502) which had been designed to ensure balanced representation of the organizations at the Conference. However, his delegation accepted the Committee's decision in a constructive spirit and would do everything necessary to ensure the success of the Conference.

26. Mr. STEWARD (South Africa) said that his delegation thought that a dispassionate and objective international conference on human rights could greatly help to improve conditions for people in many parts of the world, provided that it dealt with the real problems and avoided political manoeuvres. Unfortunately, the debate showed that, despite the goodwill and sincerity of many delegations, others were trying to make the Conference a forum for political propaganda. The provisional agenda, in particular, was disquieting because it included tendentious and polemical references to, for example, South Africa's policy. South Africa had no difficulty in supporting the principles of human rights set forth in the Charter of the United Nations, but it could not accept their misuse as a political weapon against itself. For that reason, the resolution was unacceptable to his delegation.

27. Mr. SANON (Upper Volta), speaking in exercise of his right of reply, said that South Africa's lack of goodwill was evident from its permanently negative vote in any debate on the question of apartheid in the United Nations. The claim that South Africa supported the human rights set forth in the Charter was only to be explained by supposing that South Africa had a completely different conception of human rights.

28. Mr. SCHREIBER (Secretariat) thanked the delegations which had provided additional information on the activities to be undertaken by their countries in connexion with the International Year. The Secretariat could now pass on to the stage of practical organization of the Conference, during which it would work with all possible objectivity and goodwill, and was ready to apply the resolution adopted, taking into account the observations made during the debate. The Conference was still an inter-governmental one. The only point on which the Committee had been divided had been the participation of non-governmental organizations. The General Committee of the Conference would play a very important role in determining the opportunities to be given to such organizations. The Conference was not an ordinary United Nations meeting, but a conference of an exceptional nature from which the world expected much and to which the Secretary-General would give every possible assistance.

## AGENDA ITEM 60

Question of the punishment of war criminals and of persons who have committed crimes against humanity (continued)\* (A/6703 and Corr.1, chap. XII, sect. VIII; A/6813, E/4322, chap. III; E/CN.4/928, A/C.3/L.1503 and Corr.1, A/C.3/L.1504)

CONSIDERATION OF THE REPORT OF THE JOINT WORKING GROUP OF THE THIRD AND SIXTH COMMITTEES

29. Mr. KOOLJMAN (Netherlands), speaking as Vice-Chairman Rapporteur of the Joint Working Group of the Third and Sixth Committees, stated, after a brief survey of the background, that although the Group had exceeded the time-limit originally set for the completion of its work, that was indicative of the seriousness with which it had carried out the task entrusted to it. The task, however, had by no means been an easy one, because there had been a difference of opinion which had made it impossible to reach agreement by consensus on all the points discussed. Because some members had considered that the terms of reference entrusted the Group with the task of preparing a draft convention, several decisions had been taken by a vote, although other members had considered that procedure improper. The report on the Group's work (A/C.3/L.1503 and Corr.1), therefore, contained a draft convention, in addition to various suggestions made during the debate. Thus the Committee could acquaint itself with the most important issues that had been debated and with the various solutions that had been suggested. He expressed the hope that the report would assist the Committee in the preparation of a convention on the non-applicability of statutory limitation to war crimes and crimes against humanity.

30. Mrs. REGENT-LECHOWICZ (Poland) said that the Joint Working Group, of which her delegation had been a member, had achieved satisfactory results and fulfilled the task assigned to it. Thus it had been able to complete its work within the time-limit fixed, and on 30 November 1967 had approved a draft convention on the non-applicability of statutory limitation to war crimes and crimes against humanity which had been circulated to permanent missions the next day.

31. Her delegation felt that the provisions of the draft could have been formulated more clearly and categorically, especially article II, which was more restricted in scope than the article in the preliminary draft convention prepared by the Secretary-General (E/CN.4/928). Similarly, the final clauses should be given more universal application; article IV prevented the accession to the convention of a directly interested country such as the German Democratic Republic. However, her delegation, in a spirit of co-operation and compromise, had bowed to the wishes of the majority and voted in favour of the draft convention as a whole.

32. The fact that the draft had been adopted not by consensus but by majority vote was not due, generally speaking, to insuperable differences of juridical opinion but to the different positions of some delegations on certain immediate political problems,

such as apartheid; in that connexion she wished to repeat her view that the inclusion of apartheid in the list of crimes against humanity had been a wise decision.

33. The text of the draft convention could not be considered to introduce any innovations, since it reflected the provisions of the preliminary draft prepared by the Secretary-General and the proposals of the Working Group of the Commission on Human Rights (E/4322, para. 155). Moreover, the question of war crimes and crimes against humanity had been under review by the United Nations since March 1965, and several Governments had commented on it, some in writing, in their replies to the Secretary-General's note (E/CN.4/927 and Add.1-6). That, and the adoption of the draft convention without opposition, justified moderate optimism that the Committee would be able to adopt the convention at the present session.

34. It was essential that the Committee should fulfil with all speed the special responsibility which had been assigned to it, so as to ensure that the atrocious crimes committed by the Nazis could never be forgotten; for in the country in which perpetrators of war crimes and crimes against humanity were to be found in large numbers a statutory limitation in respect of such crimes was to enter into force on 31 December 1969.

35. The new article proposed for addition to the draft convention (see A/C.3/L.1503 and Corr.1, paras. 87 and 91-93) was unacceptable, both in the original form in which it had been put forward by the Greek delegation and in the modified form in which it had been submitted by the United States delegation as article IV.

36. Mr. VERRET (Haiti), after describing the horrors of war, said that the Nürnberg International Military Tribunal had been motivated by the political aim of punishing the conquered; it had not been marked by the serenity which should preside over the administration of justice. Yet attempts were being made in the Third Committee, which had always had the dignity of the human person and the freedom of the individual at heart, to ignore acquired rights and make the individual fair game for any hunter. But it necessarily followed from the principle nullum crimen, nulla poena sine lege that any person charged with war crimes should be judged by the competent courts of his own country according to the national laws in force. The Haitian delegation therefore regarded both the preliminary draft convention prepared by the Secretary-General (E/CN.4/928) and the draft contained in the report of the Joint Working Group (A/C.3/L.1503 and Corr.1) as unacceptable, in view of the vagueness of the offences they enumerated and the fact that they confirmed the principle of non-limitation, which was repugnant to Haiti's legal system. Moreover, the offences listed—for example, murder—were not specifically violations of the laws of war but could be committed in conditions having nothing in common with war, so that it was wrong to treat them as independent punishable offences.

37. His delegation would therefore be unable to vote in favour of the draft convention, not because it was

\*Resumed from the 1523rd meeting.

opposed to the punishment of persons guilty of war crimes and crimes against humanity but because the draft was at variance with juridical rules and international customs recognized by the majority of States. It felt that the draft should be replaced by a new text more consistent with the humanitarian ideas of modern law.

38. Mr. RIOS (Panama) stressed that the adoption of the instrument before the Committee would be an act having legal effect. The atrocities committed during and after the Second World War had not been the monopoly of any one side; yet none of the victors had been punished for such crimes—a fact which demonstrated the unilateral character of the principle proposed to be established. Moreover, war was an extraordinary and transitory situation, and efforts in the United Nations should therefore be directed to making it impossible, not to perpetuating resentments and desires for revenge. Similarly, it was highly questionable whether to persecute a fugitive and deliver him over to the courts of his enemies in any way contributed to the cause of peace. The ends pursued by the text under discussion were of a propagandist rather than a humanitarian character. The way to build and serve peace was to divert the enormous resources at present being devoted to terrifying means of destruction to alleviate the sufferings of mankind.

39. Accordingly, his delegation was not convinced of the virtues of the draft, which laid down the principle of the non-applicability of statutory limitation and the principle of retroactivity of laws, and was therefore contrary to Panamanian legislation: the Constitution of Panama provided that the law could have no retroactive effect save to the advantage of the offender. If the instrument was to be consistent with the requirements of legal science the work of drafting it should be assigned to a competent organ such as the International Law Commission, and the preliminary draft should then be circulated to Member States so that they could after due lapse of time formulate any observations they thought desirable. The draft should then be passed to the Sixth Committee, which was the body best qualified to complete the work successfully. The document submitted by the Joint Working Group was unacceptable to his delegation. Its fifth and sixth preambular paragraphs were rebutted by the arguments already advanced. Article II was very vaguely and confusedly drafted, while article III implied a very serious commitment which his country would be unable to assume without conscientious study of the question. Lastly, he felt that the small number of ratifications required under article VII for entry into force detracted from the weight and authority of the instrument itself.

*The meeting rose at 11.25 p.m.*