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NEW YORK

Chairman: Miss Maria GROZA (Romania).

AGENDA ITEM 47

Respect for human rights in armed conflicts: report of the Secretary-General (continued) (A/7720, A/8003, chap. IX, sect. E; A/8052, A/C.3/L.1797/Rev.1, A/C.3/L.1798/Rev.2, A/C.3/L.1806-1809)

GENERAL DEBATE (continued)

1. Mr. ALARCON (Cuba) said that respect for human rights in armed conflicts was a subject linked with the struggle of peoples for their liberation and against imperialist aggression. The crimes of the imperialists had become so widely known that it was imperative for the international community to take effective measures immediately to put an end to them.
2. With particular reference to the war in Indo-China he stated that the tonnage of bombs dropped by the United States on Viet-Nam in the past five years was much greater than the total tonnage of bombs used during the Second World War. Destruction had not been confined to military objectives, as had been shown by the recent bombings of hydraulic installations, which had coincided with the coming of the rainy season. It was common knowledge that the aggressors were also making systematic use of all kinds of chemical products, poisonous gases and napalm and phosphorus bombs. One did not need the testimony of the victims to prove that those crimes were being committed; one had merely to recall the recent statements of the American Association for the Advancement of Science, according to which the chemical products used by the United States Army had been applied on an unprecedented scale in Viet-Nam.
3. Resort to any of those criminal means was a flagrant violation of human rights and had been condemned categorically by the international community. He drew attention in that connexion to resolution 2603 A (XXIV) which had been adopted by the General Assembly with an overwhelming majority.
4. According to United Press International, the Pentagon had appropriated \$650 million in its 1969-1970 budget estimates for the manufacture and use of chemical and toxic products, which was nearly three times the resources of the United Nations Development Programme.
5. The Government at Washington went on promising peace while actually intensifying the war. The so-called "Viet-Namization" was merely an extension of genocide, and the so-called "pacification" was, in fact, a systematic campaign of massacre and destruction. In 1969 alone the United States aggressors had destroyed 1,600 villages, 14 per cent of all the villages in South Viet-Nam. The list of crimes was inexhaustible; suffice it to recall the words of former serviceman John M. Sweeney who, after deserting from the aggressor hordes, had said that he had received the following order: "Shoot first and ask questions afterwards". Such was the doctrine that inspired the conduct of the United States in that war; that was the reply of the United States Government to the international conventions on human rights. It was not only the enemies of imperialism who said so, but also, among others, Senator William A. Anderson, who had seen with his own eyes the so-called "tiger cages" of Con Dao prison, which was not an isolated case but one of the many prisons that the United States Government had established in Viet-Nam.
6. Aggression was not, however, confined to Viet-Nam. In recent months the bombing of the territory of the Democratic Republic of Viet-Nam had been intensified, and United States intervention in Laos and Cambodia had also been increased, with its whole Dantesque *cortège* of unimaginable horrors and atrocities.
7. Member States should bear those facts in mind when appraising the statement made at the 1781st meeting by the representative of the United States, who had sought to defend before the Committee the United States war criminals held prisoner in Viet-Nam. It should be remembered, however, that both the Government of the Democratic Republic of Viet-Nam and the Provisional Revolutionary Government of South Viet-Nam had declared their willingness to examine that problem, on condition that the United States Government undertook to withdraw all United States troops before 30 June 1971. The solution of that problem lay, therefore, with the Government at Washington. Accordingly it must renounce aggression and end a war in which it had violated all humanitarian principles.
8. Mr. PENTCHEV (Bulgaria) said that, having had the privilege of participating in the drafting of the four Geneva Conventions of 1949, he was well aware that there were omissions in those Conventions, most of which, of course, had been all too obvious to many of the delegations that had worked on the preparation of those instruments. It was not difficult to imagine the interest taken in that task by the European countries, especially the Soviet Union and the young socialist countries, which had just awakened from the nightmare of Nazi occupation, and their determination to include in the Conventions provisions for protecting the rights of combatants and prisoners and, above all, those of the civilian population. Those efforts, it must be recognized, had encountered the opposition of certain major

Powers, which had stubbornly defended the right of the forces of occupation and of the aggressor: in other words, the principle that might is right.

9. Aggression in itself was a complete denial of human rights, as was shown by the war that the United States had unleashed in Viet-Nam, Israel's aggression against Arab countries and the colonial wars being waged by Portugal and South Africa against the peoples of southern Africa.

10. As far as Viet-Nam was concerned, there was evidence—according to passages from a report published in the *New York Post* of 12 December 1969—that the United States had employed mercenaries to assassinate Viet-Cong sympathizers. It should be noted that the expression “Viet-Cong sympathizers” would allow the United States troops to murder the entire population of South Viet-Nam, since it was unlikely that the United States had a single friend in that country. Massacres like those at Songmy and My Lai had been repeated hundreds of times. In 1969 alone United States troops had destroyed more than 1,600 villages, or 14 per cent of the villages of South Viet-Nam.

11. In November 1969 President Nixon had solemnly declared that the United States was giving up the use of biological weapons and would accede to the Geneva Protocol of 1925, which prohibited the use of chemical weapons. Yet *The New York Times* had recently reported that the United States Army was maintaining its arsenal of biological weapons, that the research institutions working on the improvement of those methods of warfare had not closed down, and that in the current fiscal year appropriations equal to those of the preceding years would be made for such activities. At the same time the newspaper had reported that the White House had delayed sending the Geneva Protocol to the Senate for ratification, since it could not explain why, in its opinion, the tear gas and the herbicides which the United States was using in Viet-Nam were not covered by that instrument.

12. In the Middle East the humanitarian conventions were being violated daily in the Arab territories occupied as a result of Israel's aggression. Israel's refusal to acknowledge the facts cited in the report of the Special Committee to investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/8089), in the report¹ of the Special Working Group of Experts established under resolution 6 (XXV) of the Commission on Human Rights and in the international press was not surprising, since Israel also failed to acknowledge the validity of any of the resolutions and decisions adopted by the United Nations regarding the situation in the Middle East. It would be much more surprising if Israel were to confess to the criminal acts that were being committed by its authorities in the occupied territories, including collective punishment, the destruction of houses, administrative detention, expulsion, deportation, torture and attempts on the lives of individuals during the curfew. Most of them constituted arbitrary violations of the Geneva Conventions, but in some cases they were in conformity with express laws or regulations which manifestly contravened the international instruments.

13. The only way to safeguard human rights fully and effectively was to banish war from international relations

and to eliminate all its causes, which was, in any case, the basic aim of the United Nations. The report submitted by the Secretary-General on the topic under review (A/8052) merited the closest attention on the part of Governments, for only after examining it would they be able to take a stand and participate actively in drafting basic recommendations on the subject. He also praised the usefulness of the work of the International Committee of the Red Cross, which had rendered outstanding services in the drafting of humanitarian standards and which would convene in May 1971 a conference of experts from thirty-nine countries for the purpose of examining new standards to supplement the existing humanitarian provisions. His delegation fully agreed with the Secretary-General that the four Geneva Conventions of 1949 should remain untouched, and that they should be better applied and adapted to the developments in the methods used in armed conflict since 1949, which would thus strengthen their impact (see A/8052, para. 14). He also shared the views of a number of other delegations that steps should be taken to draft new humanitarian standards to supplement and extend the provisions of the existing Conventions. For instance, the status of the combatants of the national liberation movements and of those fighting against foreign occupation should be defined. Although he believed that the agreements in force, especially the Geneva Conventions of 1949, applied to such combatants, it would be advisable, owing to the doubts expressed in some cases, to consider the drafting of special standards for their protection.

14. However, before proceeding to formulate and approve new humanitarian rules, the United Nations should secure recognition and full implementation by all States of the provisions already in existence, in particular of the four Geneva Conventions of 1949 and the Geneva Protocol of 1925. What was involved was not only the promotion of respect for those instruments, but also the discouragement of those who violated them, particularly the aggressors who unleashed armed conflicts, with all their disastrous consequences for human rights. That was precisely the aim of draft resolution A/C.3/L.1798/Rev.2, which reflected the views expressed in the general debate and enjoyed the full support of his delegation.

15. Mr. PAPADEMAS (Cyprus) noted the paradoxical situation of the United Nations, which talked about strengthening international peace and security at the same time as it accepted the sad reality of armed conflicts. If mankind was to reach a level of civilization at which organized life would be based on the rule of law and armed conflicts would be eliminated from relations between States, it would be essential to eliminate the causes of those conflagrations and to accept Raymond Aaron's premise that none of the evils man claimed to avoid by war was as great an evil as war itself. However, if the peoples of the United Nations were unable to preserve peace and resolve their differences by negotiation in accordance with the rules of law, they could at least observe humanitarian rules in armed conflicts. The obligation scrupulously to observe the legal standards relating to armed conflicts did not, of course, preclude the obligation to strive to strengthen peace and to resolve differences by peaceful means, so that the world might bring to an end the present violent period of transition and break with the obscurity of the past to enter upon a new era of morality and understanding.

¹ Document E/CN.4/1016 and Add.1-5.

16. As the valuable reports prepared by the Secretary-General (A/7720 and A/8052) indicated, the United Nations had carried out an important task in the field of human rights in armed conflicts. His delegation supported the Secretary-General's statement that the existing international instruments, including the Hague Conventions of 1899 and 1907, the Geneva Protocol of 1925 and the Geneva Conventions of 1949, as well as the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Forms of Racial Discrimination and other General Assembly resolutions, should remain unchanged and be fully implemented. Also, it was fully aware of the important contribution made by the International Committee of the Red Cross in the field of human rights in armed conflicts, and it believed that it would be called on to play an important role in the future. The report of the conference of governmental experts to be convened by the International Committee of the Red Cross in May 1971 would doubtless be of great value in studying the formulation of international legal instruments in that area. The fruitful co-operation between the International Committee of the Red Cross and the United Nations should continue and be strengthened in the future.

17. Nevertheless, his delegation believed that if a meaningful contribution to the development of humanitarian international law was to be made, efforts should first be directed to the compilation of existing international instruments, i.e. the body of international law created by usage and custom. As a second step, ways and means would have to be found to guarantee the strict observance of those instruments; thirdly, supplementary international instruments to bridge the gaps in the existing ones would have to be promulgated. His delegation hoped that at its twenty-sixth session the General Assembly would consider the possibility of establishing a body to complete those supplementary international instruments in the light of the studies that were being planned and of the report of the conference of experts convened by the International Committee of the Red Cross.

18. In the meantime, all parties to armed conflicts should be urged to observe existing agreements scrupulously, in particular the Geneva Conventions of 1949, and to afford protection to civilians, care to the sick and wounded, and humanitarian treatment to prisoners of war. Also, special protection should be given to correspondents on dangerous missions who were carrying out the sacred duty of keeping the world informed.

19. Mr. EL-FATTAL (Syria) said he felt that the Hague Regulations, drawn up in the second half of the nineteenth century, had been conditioned by the dynamics of the balance of power in that era and constituted a law that was European in its objectives and concepts and specifically adapted to the structure of the European system. The same was true, to some extent, of the Geneva Conventions of 1949, which, despite their more comprehensive scope, fell short of the humanitarian objectives they sought to achieve.

20. It was important to note that if the alleviation of suffering was the objective of humanitarian laws, it went without saying that there could be no progress towards that end unless the law of war was supplemented by the law of disarmament. It would be a contradiction in terms to try to

humanize armed conflict when there existed the theoretical and potential means of killing mankind as a whole, and while aggressors could with impunity refuse to make a distinction between civilians and combatants. In both Viet-Nam and the Middle East the highly mechanized armies of the United States and Israel had once again used the "scorched earth" tactics of barbarous times, with the difference that they had a better understanding of the technology required to apply those tactics. Therefore, humanitarian international law must be strengthened by the elaboration of a strong body of international criminal law and the determination of personal and State responsibility in connexion with war crimes and crimes against humanity.

21. The proof of the adequacy of any legally binding instrument lay in its application by the States that were parties to it. The appeal by the International Conference of Human Rights held at Teheran in 1968, for the better application of humanitarian international conventions and the conclusion of additional conventions to ensure the better protection of civilians and combatants would be futile if the contracting parties did not implement them with a deep sense of responsibility and goodwill.

22. Turning to the valuable reports of the Secretary-General (A/7720 and A/8052), which were a useful contribution to the study and understanding of humanitarian international law, he endorsed the recommendation to preserve the Geneva Conventions while stressing the necessity for up-dating them by way of interpretation or additions. The process of expansion and addition should have as its primary objective the twofold task of widening the humanitarian scope of the international instruments in order to accommodate them to the realities of the third world, where the persistence of fascism, colonialism and foreign occupation had made armed struggle a means of attaining legitimate national objectives, and of intensifying the efforts aimed at humanizing wars by prohibiting, *inter alia*, the use of certain weapons and methods of waging war, such as napalm and defoliants.

23. His delegation commended the co-operation of the Secretary-General with the International Committee of the Red Cross and the co-operation of both with intergovernmental and non-governmental bodies, and it supported the convening in May 1971 of a conference of government experts, but it would like to see among those experts representatives of countries whose territory was under foreign military occupation. It regretted that Israel, which was occupying territories belonging to three Member States and refused to implement the Geneva Conventions, had been invited to participate in that meeting. It would also like the points of view of African and Asian liberation movements to be voiced at the meeting.

24. With regard to internal armed conflicts, it had been noted that the applicability of existing instruments was limited to international conflicts. However, both the General Assembly and the XXIst International Conference of the Red Cross had clearly indicated that the principles proclaimed in their resolutions applied to all armed conflicts. Thus there arose the problem of defining what constituted a "conflict", as no generally acceptable definition had so far been formulated. The difficulty of finding such a definition was described in chapter VIII of the

second report of the Secretary-General (A/8052). In any case, it was vital to give in all cases the protection prescribed in common article 3 of the Geneva Conventions.

25. With regard to the protection of combatants in international armed conflicts, he noted with satisfaction that chapter V of the same report stressed the need to re-examine the international provisions concerning the definition of protected combatants, since the present provisions contained discrepancies and were not always precise enough and might lend themselves to difficulties of interpretation. Those difficulties were even more serious when members of liberation movements in Asia, Africa and Latin America were involved.

26. In that connexion his delegation wished to raise two questions relating to the definition of combatants and to the situation in the Middle East. First, it would like to know whether the nationals of a country that was not party to a conflict were entitled to the protection afforded by the Geneva Conventions when they were fighting in the ranks of an army of a country which was a party to the conflict. Second, with regard to the military-agricultural settlements established by Israel in the occupied territories, in particular those on the Golan Heights, it wanted to know whether they should be categorized as civilian or military, or both. The Israelis claimed that they were both military and civilian. Yet whenever it was contended that their establishment constituted a violation of the fourth Geneva Convention, relating to the Protection of Civilian Persons in Time of War, the Israelis replied that they were paramilitary settlements. On the other hand, when, as a consequence of Israeli aggression, some of their members were injured, the Israelis claimed that civilians had been injured. With regard to the protection of civilians in occupied territories, he observed that the impact of "psychological warfare" in those territories had not yet been examined. The mental cruelty inflicted upon civilians in occupied territories could produce effects as harmful as physical cruelty, and it should be studied at the international level as soon as possible.

27. Special attention should be paid to the question of guerrillas and the protection of civilians and combatants in the struggle of peoples under colonial and foreign domination for their liberation and self-determination. As long as colonialism, racism and discrimination against the countries of the third world existed, the international community should extend all possible legal protection to those who were taking part in the struggles for liberation and self-determination. The refusal of the occupiers, invaders, imperialists and racists unconditionally to apply all the provisions of the Geneva Conventions and other humanitarian instruments should be considered immediately as a war crime and a crime against humanity.

28. Begum HAMIDULLAH (Pakistan) agreed with previous speakers that the reports of the Secretary-General (A/7720 and A/8052) provided an excellent analysis of the complexities involved in the protection of human rights in armed conflicts.

29. It was certainly paradoxical that the Committee should be considering item 47 when the ultimate goal of the United Nations was the eradication of war. But to be realistic one must recognize that, until that ultimate goal

was attained, the international community must endeavour to protect human rights in armed conflicts as far as possible.

30. In the twentieth century there had been a considerable evolution in the laws and rules of war; however, not only had the international community not succeeded in eliminating armed conflicts, but it had not even been able to ensure the application of those rules.

31. Her delegation believed that the Geneva Conventions of 1949 continued to be relevant to the protection of human rights in armed conflicts and that it was necessary to improve their application. Although they contained serious defects and lacunae, there was no doubt that, given goodwill and understanding, it would be possible to expand their legal scope and make them applicable to situations which had not been adequately provided for at the time of their codification. In that connexion the Secretary-General had advanced certain concrete suggestions which were worthy of careful examination and scrutiny.

32. The problems involved in guaranteeing the application of the existing instruments in cases of armed conflicts were, principally, the following: the difficulty of detecting specific violations of the Conventions; the lack of a definition of what constituted a violation of the international instruments in each specific instance; and the difficulty of undertaking measures against individuals, groups or Governments violating the provisions of the international instruments. In fact there seemed to be a need for an international body or tribunal to adjudicate the guilt or innocence of individuals, groups or Governments.

33. Furthermore, it was highly important to prepare new instruments in an effort to solve the following problems: the use of weapons of mass destruction, such as the atomic bomb, napalm and chemical and bacteriological weapons; the problem of distinguishing between conflicts of an international character and internal conflicts; and lastly, the problem of protecting the civilian population from indiscriminate bombing. Chapters VIII, IX and X of the Secretary-General's report (A/8052) illustrated the problems involved in protecting the civilian population in conditions of guerrilla warfare, whether of an international or internal character. In such cases the most important problems were how to identify the combatants and how to distinguish between what the Geneva Conventions called "legitimate uses of war" and terrorism. The Secretary-General's report suggested the establishment of refuges or sanctuaries for persons who qualified for protection in time of armed conflict. However, it was apparent that the parties to a conflict could abuse those sanctuaries if the necessary means of supervision were not available. Consequently, the efficiency of any measure of that nature would depend upon the trust which each party had in the other.

34. She agreed with the delegations that had suggested that the report of the Secretary-General should be transmitted, together with the records of the Committee's discussion, to the intergovernmental conference of experts to be convened by the International Committee of the Red Cross in 1971. She believed that the report of that conference would provide a basis on which the United Nations could assemble a body of recommendations in the form of international conventions and protocols.

35. Mr. TORRES (Philippines) considered it essential that, when discussing item 47, the members of the Committee should confine themselves to the humanitarian aspects of armed conflicts and disregard the political aspects. The primary concern of the international community should be to protect the rights of civilians who did not participate in hostilities but whose human rights were not respected. He accordingly advocated the adoption of the suggestions contained in the draft resolution submitted by the delegation of Greece (A/C.3/L.1807), recommending the removal of such civilians to less dangerous areas, the establishment of refuges or sanctuaries for civilians, as mentioned in the report of the Secretary-General, and the formulation of standard minimum rules for the protection of civilians in all armed conflicts.

36. There was also the problem of journalists who also did not participate in hostilities and who were armed only with a determination to inform the world of events. The drafters of the Geneva Conventions had not taken sufficient account of such persons, whose only crime was to do their duty; nor had they foreseen the need to protect the human rights of journalists who were not war correspondents. The Committee should therefore propose measures to protect such journalists. All possible efforts should be made to expedite the adoption of an international agreement which should ensure the protection of journalists, news correspondents and representatives of other information media bearing recognized identification documents. His delegation supported the recommendations appearing in document A/C.3/L.1797/Rev.1 as a provisional measure pending the conclusion of that agreement.

37. He then drew attention to the unhappy plight of the prisoners of war interned in Viet-Nam and pointed out that both North Viet-Nam and South Viet-Nam were signatories of the Geneva Convention relative to the Treatment of Prisoners of War, so that there was reason to hope that they would comply with the provisions of that instrument. However, since the Hanoi Government had not even agreed to communicate the names of those who had died, it was to be doubted that it was according humane treatment to its prisoners. If they had nothing to conceal, why should the North Viet-Nameese authorities summarily refuse to grant access to the prisoners, even to the International Committee of the Red Cross and other neutral humanitarian organizations? That refusal showed that the prisoners were not receiving the treatment allegedly provided by the authorities, and led one to wonder whether they were even granted the minimum necessities. To allay those doubts, the Government of North Viet-Nam only had to permit inspection of the prisoners' camps by representatives of the International Red Cross, whose strictly humanitarian function was recognized by all nations. Such an action would not only be a token of goodwill, but it would represent a first step towards mutual recognition of the need for the humane treatment of prisoners of war. Consequently his delegation urged North Viet-Nam to respond to that

humanitarian appeal, made personally by the Secretary-General in 1969. To ensure compliance with the provisions of the Geneva Convention relative to the Treatment of Prisoners of War by the States Parties, he also recommended the adoption of draft resolution A/C.3/L.1808, which was in keeping with the provisions of General Assembly resolution 2444 (XXIII).

38. Those observations pointed to the fact that his delegation was not in favour of discarding or completely revising the regulations and conventions in force on the subject, since they formed a dynamic and flexible set which, with certain modifications to suit the existing circumstances, would be as valid then as they had been when they were concluded. What was needed was a better implementation of those instruments by the States Parties. Consequently, any attempt to formulate additional protocols should be accompanied by efforts to ensure full implementation of the rules in force. The adoption of further provisions for the application of humanitarian principles in armed conflict should be the result of careful study by qualified and impartial experts.

39. In view of the danger that political and national interests might enter into the deliberations of United Nations bodies capable of dealing with the problem, it had been proposed that the study should be undertaken by the International Committee of the Red Cross. However, that did not mean that the United Nations family should have no part in the formulation of those new humanitarian legal provisions. On the contrary, the United Nations had a vital role to play in collaborating closely with the Red Cross, in accordance with the relevant resolutions. The International Committee of the Red Cross had convened a conference of government experts from countries with different legal and social systems, for the purpose of making concrete proposals regarding rules to supplement the existing international humanitarian laws. To ensure proper co-ordination, the two reports before the Committee (A/7720 and A/8052) as well as the records of the discussions and resolutions on the subject by the General Assembly, the Economic and Social Council and the Commission on Human Rights could be made available to the conference of experts, and the Secretary-General could keep Member States informed of developments. Consequently his delegation recommended the adoption of a text based on draft resolution A/C.3/L.1809.

40. In conclusion, he did not agree with the proposal that the various draft resolutions should be combined in a single text, because they dealt with very different questions and the resulting document would be large and unwieldy. In the important field of human rights, the different aspects should be studied in depth, and that would be easier if the different draft resolutions were considered individually.

The meeting rose at 5.45 p.m.