



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, A/C.3/L.1806, A/C.3/L.1807)

GENERAL DEBATE (continued)

1. Mr. AL-SHAWI (Iraq) said that the report of the Secretary-General (A/8052) had achieved the first of its two stated purposes, namely to elucidate the issues discussed in the preliminary report (A/7720). Both reports contained a great deal of valuable material and would no doubt be a useful contribution to future studies on the subject.

2. The best way to protect rights in general was to eliminate all wars and all possibility of war. As had been aptly stated in resolution XXIII of the International Conference on Human Rights,¹ peace was the underlying condition for the full observance of human rights and war was their negation. Since, however, a just and lasting peace seemed to be a remote possibility and since armed conflicts were a common occurrence, measures and steps should be taken, as emphasized in operative paragraph 2 of General Assembly resolution 2444 (XXIII), to secure the best possible application of existing international instruments relative to the protection of human rights in all forms of conflict. It was essential that such measures should be carefully examined in the current debate, for the world community must find an effective means of prevailing on parties to armed conflicts to observe internationally accepted standards and to provide assistance to the victims. Obviously publicity for and education on international instruments of a humanitarian character were essential, but such long-term measures could contribute little to the immediate alleviation of human suffering.

3. The institution of Protecting Powers, provided for in article 86 of the 1929 Geneva Convention relative to the Treatment of Prisoners of War,² and extended to all four of the 1949 Conventions under common article 8 of the first three Conventions and article 9 of the fourth Convention, had serious shortcomings which had been confirmed by bitter experience in world and local conflicts. Not even the

excellent ideas set forth in the Secretary-General's preliminary report (see A/7720, paras. 216-220) would make that institution effective or acceptable in the circumstances of modern warfare. Experience had also revealed the futility of leaving the responsibility for the application of international instruments to the parties concerned, and humanitarian organizations as referred to in the third paragraph of common article 10 of the first three Geneva Conventions, while they could play a useful role, could not take effective measures to bring about the application of international instruments without exceeding their competence and acquiring resources and facilities that they did not at present possess. What was needed was action to strengthen the system of international supervision of the observance of the humanitarian norms of international law. The best way to give expression to international concern for the victims of armed conflicts would be to involve the United Nations directly as the world-wide organization which could offer all guarantees of impartiality and efficacy, as referred to in the first paragraph of article 10.

4. If hopes were now focused on the United Nations, what had it done so far? First, it had worked out more and perhaps better international instruments, but in doing so it had not succeeded in solving the problem of observance and application. New methods of warfare and new rules of international law on self-determination, decolonization, racial discrimination and the protection of human rights made it necessary to review and to complete existing international instruments. Yet despite their obvious shortcomings much could be achieved within the framework of those texts once ways of ensuring their implementation were found.

5. Secondly, the United Nations had adopted an *ad hoc* approach to the task of supervising the application of the provisions of some of the Geneva Conventions. Two *ad hoc* bodies, established respectively by the General Assembly and the Commission on Human Rights, were mentioned in the report of the Secretary-General (see A/8052, para. 246). The second body, the Special Working Group of Experts established under the Commission's resolution 6 (XXV) to investigate Israel's violations in occupied Arab territories of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, had arrived at some appalling conclusions. Chapter III of its report³ indicated that Israel had committed outrageous violations, including wilful killing, torture, destruction and expropriation of property, deportation, demolition of entire villages, establishment of Israeli settlements in the occupied territories, and illegal assumption of powers, including judicial authority, in violation of the Geneva Convention. Collective

¹ See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No. E.68.XIV.2), p. 18.

² League of Nations, *Treaty Series*, vol. CXVIII, 1931-1932, No. 2734.

³ Documents E/CN.4/1016 and Add.1-5.

and individual murder had been committed on many occasions, particularly in the following circumstances: during the demolition of houses or whole villages or sections of towns, in which elderly persons and invalids who were unable to move quickly were sometimes killed; during attempts to cross the Jordan by residents of the west bank returning to their homes, as described in the Zionist publication *Imperial News* of March 1968; during sudden arbitrary round-ups of civilians going about their ordinary activities; during attempts to reach other villages when the houses of the persons concerned had been destroyed, or upon their return to their wrecked houses to save what was left of their belongings; during searches and curfews, as in the case of the twenty-three persons killed at the Shouyukh al-Eid camp and Al-Awathira on 15 June 1967, the twenty-five executed at Tourkrom on the same day, and the thirty young people killed near Toubas on 17 June 1969. Israeli methods of torture and inhuman treatment included burning parts of the body with lighted cigarettes and red-hot irons, suspension from the ceiling by the wrists, flogging, pulling out of finger- and toe-nails, submersion in water through which electric current was passed, beating with iron pipes, application of nitric acid to the lips and burial in the sand up to the neck in the blazing sun. Arab girl prisoners had been paraded naked before Israeli soldiers; children less than ten years old had been covered with earth and shots had been fired in their direction to intimidate them into guiding Israelis to hidden arms stores, and when their mothers had intervened the Israeli soldiers had threatened to send them to houses of ill repute. Those facts were confirmed and augmented by the report (A/8089) of the other of the two *ad hoc* bodies mentioned in the report of the Secretary-General (see A/8052, para. 246), the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories, which had been distributed to the members of the Committee. That report established beyond doubt that Israel was pursuing policies and practices in gross violation of the human rights of the population of the occupied territories and that existing arrangements for the enforcement of the Geneva Conventions were totally inadequate. The only actions taken by the United Nations pursuant to the two investigations had been the adoption of resolution 10 (XXVI) by the Commission on Human Rights, giving the Special Working Group of Experts a further assignment, and the publication and distribution of the report of the Special Committee. More than that would have to be done if, in the words of the Secretary-General (see A/8052, para. 238), means of prevailing on parties to armed conflicts to observe internationally agreed standards were to be found.

6. Thirdly, the United Nations had also passed resolutions on humanitarian matters, but they would be of little use if they were trampled underfoot with impunity by Member States such as Israel. He cited a number of resolutions of the Security Council, the General Assembly, the Economic and Social Council, the International Conference on Human Rights, the World Health Organization and the International Committee of the Red Cross which had been flouted by Israel.

7. If the first paragraph of common article 10 of the first three Geneva Conventions was interpreted to mean that the United Nations should be involved directly as the world-

wide organization which could offer all guarantees of impartiality and efficacy, it would be seen that the troubled world did not need more international instruments, fact-finding committees or humanitarian resolutions. What was desperately needed was some effective measure, some urgent act of deliberate courage on the part of the world community to reaffirm its determination to enforce the principles of the Charter of the United Nations, the Universal Declaration of Human Rights and the many other relevant international instruments. Moral force alone was not enough: it was time that the organized physical force of the whole world was brought to bear on the situation. For that purpose, no new machinery was needed: implementation of Articles 41 and 42 of the Charter would suffice.

8. Mr. LORCH (Israel) observed that the Committee would doubtless be treated to further supposedly objective statements on the item under consideration and that he would reserve his right to reply to them after they had been made.

9. Mr. ÅLGÅRD (Norway) said that, in addressing itself to the sufferings and needs of the victims of war and war-like situations, the international community was not, of course, condoning unlawful recourse to violence in any form. It was simply fulfilling its responsibility under the Charter and the Universal Declaration of Human Rights to work unceasingly for the better protection of basic human rights in all situations. He was pleased to note that the views expressed by his delegation at the previous session were to a large extent reflected in the report of the Secretary-General (A/8052), a document which had been prepared with great care and revealed a profound understanding of the political framework within which it was necessary to work.

10. Perhaps the most critical question to be decided by the Committee was how to bring about the most effective working relationship between the United Nations and the International Committee of the Red Cross. He was inclined to believe that the humanitarian cause would best be served by establishing a panel of experts or even a small standing committee of government-appointed experts under the General Assembly. In close collaboration with the International Committee of the Red Cross, such a body could be instrumental in paving the way for the adoption, possibly at an international conference of plenipotentiaries, of new and binding international law pertaining to armed conflicts. However, in considering the desirability of setting up any such body it would be necessary to take fully into account the present work programme of the Red Cross. That body had decided to convene in 1971 a conference of government experts on the reaffirmation and development of international humanitarian law applicable in armed conflicts. Accordingly, it might be premature to set up a special body at the present juncture. The advisability of such a step, together with any substantive comments and ideas which might emerge from the conference of experts, could be borne in mind when the present item came up for consideration at the next session of the General Assembly.

11. The Secretary-General had rightly concluded that existing instruments showed gaps and deficiencies which would need to be remedied, but his delegation thought that instead of revising those texts, the international community should seek to bring international law up to date through

additional international instruments. They would, of course, have to be prepared in the light of the Hague Regulations, the Geneva Conventions and such instruments as the International Covenant on Civil and Political Rights. The Secretary-General had rightly stressed the favourable effect which early ratification and entry into force of the latter would have on the protection of human rights in armed conflicts of a non-international character. His preliminary report (A/7720), as well as the debate at the previous session, supported the following conclusions: firstly, that basic and fundamental human rights, as laid down in the appropriate international instruments, continued to apply in armed conflicts, although with certain unavoidable derogations; secondly, that the claim to protection and relief by the civilian population not taking an active part in hostilities should not be affected by the ever-increasing difficulty in distinguishing between international and non-international armed conflicts or the participation in such conflicts of unorthodox military forces, and that that claim should not be weakened by the existence of new means and methods of warfare; thirdly, that the protection of human rights in all armed conflicts would be vastly improved by a more effective implementation of existing specific regulations, in particular the four Geneva Conventions of 1949.

12. Prompted solely by humanitarian considerations, his delegation had submitted a draft resolution (A/C.3/L.1806) setting forth basic principles for the protection of civilian populations in armed conflicts. It was not designed to introduce new legal or technical concepts, and the text had been formulated carefully only after consultations with experts of the International Committee of the Red Cross and the Secretary-General. The aim was to affirm fundamental principles concerning the protection of the innocent civilian population, principles which he believed commanded wide support. The basic propositions of the draft were that existing instruments of international law pertaining to the protection of civilian populations in time of armed conflicts were not adequate; that there existed certain generally agreed principles for such protection which had not yet been laid down in international instruments; and that, pending the formal further development of the international law relating to armed conflicts, it would be beneficial to affirm those principles which had been accepted, either expressly or tacitly, by most nations. For example, in the seventh preambular paragraph the General Assembly would express its conviction that innocent civilian populations were in special need of increased protection in time of armed conflicts and, to give further emphasis to the overriding concern for that need, the eighth preambular paragraph referred specifically to the importance of the strict application of the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War. The General Assembly was called upon to affirm certain principles, a number of which had already been affirmed in its resolution 2444 (XXIII). He wished to stress, firstly, that no attempt had been made to lay down new and revolutionary rules or anything like a final set of minimum rules for the protection of civilians. Secondly, the term "armed conflicts" was meant to cover armed conflicts of all kinds—an important point, since the provisions of the Geneva Conventions and the Hague Regulations did not extend to all conflicts. Thirdly, it was stated that affirmation of the principles would be without prejudice to their future elaboration.

13. While the provisions of the draft resolution were self-explanatory, he would like to draw attention to a few particular points. Sub-paragraph 1 of the operative part set forth a principle which was one of the main conclusions emerging from the debate at the previous session. Sub-paragraph 5 was similar to article 25 of the Hague Regulations of 1907. The purpose of subparagraph 6 was to ensure that places or areas designated for the protection of civilians should not be the object of military operations, for such areas might not coincide with those covered by subparagraph 5 and a specific guarantee of their immunity might be needed. He drew attention in that connexion to the provisions of the Geneva Conventions recognizing the establishment of such zones and localities. Furthermore, the fact that the Hague Regulations prohibited any attack or bombardment of undefended towns, villages, dwellings or buildings justified the immunity of places or areas designed for the protection of civilians. Subparagraph 7 sought to ensure protection against reprisals for civilian populations not covered by the provisions concerning reprisals in the Geneva Conventions, while subparagraph 8 would establish an obligation not to use the civilian population as a cover for military operations. Lastly, in connexion with subparagraph 9, he noted that the Declaration of Principles for International Humanitarian Relief to the Civilian Population in Disaster Situations, unanimously adopted at the XXIst International Conference of the Red Cross, stressed the need for co-ordination of the activities undertaken by impartial international humanitarian organizations for the benefit of civilian populations and acknowledged that human suffering must be alleviated regardless of whether it resulted from lack of economic development, famine, the ravages of natural disasters or armed conflicts. That Declaration also established the important principle that relief by impartial international humanitarian organizations for civilian populations in natural or other disaster situations should, as far as possible, be treated as a humanitarian and non-political matter.

14. Miss BIHI (Somalia) said that the attack by the Israeli representative on the integrity and composition of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories had come as no surprise to her delegation. Ever since the occupation of Arab territories after the 1967 war, the Israeli Government had been particularly sensitive to and embarrassed by world condemnation of its policies and practices concerning the Arab population. The Special Committee was not the only United Nations body which had been subjected to such attacks. Moreover, various non-governmental organizations, such as Amnesty International, had also been severely criticized by the Israeli Government when they had published reports on conditions in the occupied territories which had shown the Israeli occupation forces in a bad light.

15. Somalia was totally committed to the cause of peoples everywhere who were struggling to preserve or assert their inalienable rights, as recognized in the Charter of the United Nations and the Universal Declaration of Human Rights. Consequently, her country was as completely opposed to the usurpation and denial of the inalienable rights of the Palestinian people and the Arab inhabitants of occupied territories as it was to the usurpation and denial

of the rights of the non-white peoples of southern Africa by the white racist minority. On such matters there could be no compromise. The Israeli representative had endeavoured to cast doubt on the reliability of some of the Arab witnesses heard by the Special Committee, but it would be interesting to know his reaction to the evidence given by the Israeli League for Human Rights and by Mrs. Felicia Langer, a distinguished Israeli lawyer. Surely he could not be serious in affirming that, because more than 50,000 tourists visited the occupied territories, they were in a position to state whether or not the Arab population was suffering under the occupation. The very fact that Arab lands were occupied by a foreign force constituted the greatest suffering of all and the greatest indictment of Israel.

16. Mr. LORCH (Israel) said it was not his intention that the discussion of the report of the Special Committee should be resumed. He wished solely to recall that he had quoted the statement of the Foreign Minister of Somalia to the effect that Somalia considered itself "in a state of war with Israel" and had therefore questioned how, under those circumstances, it was possible for Somalia to adopt an impartial attitude toward Israel. He asked whether the Somali representative would deny the words which had been quoted and how she could reconcile that affirmation with the solemn statement by the Somali representative in the Special Committee that he would fulfil his functions impartially.

The meeting rose at 5.30 p.m.