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**New York**

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**Chairman: Mr. Hermod LANNUNG (Denmark).**

**AGENDA ITEM 33**

**Draft Convention on the Nationality of Married Women (Economic and Social Council resolution 587 E (XX), A/2944, A/3059, A/C.6/L.373, A/3154, chap. VII, section IX, para. 541, A/3193, A/C.3/L.513, A/C.3/L.519, A/C.3/L.520, A/C.3/L.521) (*continued*)**

**NEW ARTICLE (*continued*)**

1. Miss LIMA SCHAUL (Guatemala) said that her delegation would have difficulty in supporting either the amendment submitted by the United Kingdom (Economic and Social Council resolution 587 E (XX), annex A) or that submitted by Belgium (A/C.3/L.513), because to do so would be tantamount to recognizing the relations which existed at present between metropolitan States and Non-Self-Governing or Trust Territories. The Guatemalan delegation was one of those which had fought in the Trusteeship Council for a separate political status for the inhabitants of such territories. It had also objected to the fact that administrative relations were transformed into political relations, that the inhabitants of the territories in question were assigned a foreign nationality without prior consultation, and that the administering Powers still made distinctions between civilized and non-civilized peoples and developed and non-developed peoples; or applied racial or economic discrimination.

2. In the opinion of the Guatemalan delegation, amendments such as those which had been proposed would not help the administering Powers to promote the political development of the dependent territories in accordance with the United Nations Charter or to grant them their rights in matters of nationality.

3. In view of the juridical complexity of the questions which had been raised, it might be advisable for the Fourth Committee or some other competent organ of the United Nations to make a technical study of the problem of the nationality of married women in territories which were not yet independent.

4. Mrs. SHIPLEY (Canada) agreed with the majority of the members of the Committee that the Convention should apply to the greatest possible number of persons. However, that point of view did not lead her to the conclusions arrived at by a number of delegations; the logical way of ensuring that the Conven-

tion should be widely applied, in her opinion, would be to try to overcome the very real difficulties encountered by certain States. Some representatives had said that their Governments would be in a difficult situation unless the Convention included a territorial clause. It would be somewhat unreasonable, therefore, to take a decision which would preclude the accession of a number of States and thus deprive many persons of the benefits provided in the Convention. The Canadian delegation was convinced that a territorial clause should be included in the draft Convention, and it would vote to that effect.

5. Mr. ABIDIA (Libya) said that he had been absent when the vote had been taken on articles 4 and 5, and requested that it should be noted in the summary record that his delegation was in favour of those articles.

6. Mrs. ELLIOT (United Kingdom) thought it was becoming clear that neither the Belgian nor the United Kingdom amendment would command the substantial majority that was desirable; the Committee would therefore do well to look for a formula that was more generally acceptable.

7. As she had indicated at the previous meeting, the clause in the Supplementary Convention on the Abolition of Slavery, the Slave-Trade, and Institutions and Practices similar to Slavery might serve as a model, since it had been adopted by a very large majority at the Conference of Plenipotentiaries held at Geneva. The United Kingdom delegation therefore intended to withdraw its amendment and to submit a text which would follow, in broad outline, article 12 of the Supplementary Convention on Slavery. However, it would not be possible to circulate and discuss the text until the following meeting. In the meantime, the Committee might go on to examine the reservations clause.

8. Mr. THIERRY (France) agreed with the United Kingdom representative that it would be wise to take as a basis the relevant clause in the Supplementary Convention on Slavery. That clause had been studied in detail and debated at length, and had subsequently been accepted by a large number of States.

9. Mr. EUSTATHIADES (Greece) pointed out that in the case of the Supplementary Convention on Slavery, the insertion of a territorial clause had not raised the same problems as in the case of the draft Convention before the Committee, nor had it had the same implications. The main point in the former case had been to specify the limits on the right of inspection. Consequently, a compromise had been possible on the geographical limitation of the Convention discussed at the Geneva Conference, for there was no reason why States opposed to the right of inspection should not have been able to accept the limitation of that right to certain regions, when those in favour of the right of inspection were prepared to accept such a limitation.

In the Convention on Slavery, therefore, the question of a colonial clause did not arise.

10. Moreover, the number of States which had participated in the Geneva Conference could not be compared with the number of Member States of the United Nations; thus the majority obtained at that Conference in favour of the geographical limitation of the Convention could not be taken as indicating that there would be a similar majority in the United Nations.

11. Mr. SAMY (Egypt) said that the question of territorial application had been discussed over and over again, and that the only practical solution was a universal one which would do away with any distinction between the peoples of different countries, self-governing or non-self-governing. The world situation was unhappily such that it was questionable whether the progressive evolution mentioned by the Belgian representative would in fact manifest itself to the advantage of the peoples of the Non-Self-Governing Territories. Given any desire to do so, the metropolitan Powers could adopt legislative measures which would enable the Non-Self-Governing Territories to accede automatically to international conventions. Such a solution would be perfectly in accord with one of the fundamental principles of international law, the principle that international law transcends internal legislation.

12. The draft Convention before the Committee dealt with a fundamental aspect of human rights: its purpose was to protect the rights of married women in matters of nationality. Any restriction on the universal application of those rights would be tantamount to a violation of the Universal Declaration of Human Rights and an infringement of the Charter of the United Nations. The Belgian representative had said that the article proposed by his delegation was a positive one, and that its adoption would facilitate the universal application of the Convention. It was hard to agree with that view. The Belgian amendment (A/C.3/L.513) was positive only to the extent that it left the territorial application of the Convention open to the signatory State. However, that State's choice might well be exercised in a sense opposite to that of universal application. The Belgian amendment then became frankly negative; however that defect could be remedied by replacing the word "may" by "shall".

13. If the French amendment (A/C.3/L.521) was really intended to make it clear that the Convention was meant to be applied to all territories, it would be preferable to adopt the draft as it stood without introducing any restrictions whatsoever.

14. The time had come for the administering Powers to allow the Non-Self-Governing Territories to realize their aspirations to independence and self-determination at last. An international convention expressing the common will of the nations on a particular aspect of human rights should in no case be made to serve the purposes of a policy of expediency.

15. Mr. MUFTI (Syria) said that at the previous meeting it had been decided to postpone the vote in order to allow certain delegations to submit a new amendment. Instead of putting a specific text before the Committee, however, those delegations were merely making vague suggestions. They were trying, by referring to the position taken by various States in con-

nexion with the Supplementary Convention on Slavery, to prejudge their position on an entirely different question. The Syrian delegation, for its part, wished to state that the position it had taken in the past would in no way prejudice its policy in regard to the draft Convention under consideration. He had stated his delegation's views on many occasions; he would merely add that the effect of the amendments submitted by Belgium and the United Kingdom, the object of which was to give special treatment to the Non-Self-Governing and Trust Territories, would be to isolate the population of those Territories from the rest of the world. Those amendments were therefore contrary to the provisions of Article 76 c of the Charter, the purpose of which was to develop the interdependence of the peoples of the world.

16. If the Committee wanted to be able to complete its agenda, it must follow the normal procedure: it must close the debate and pass on to the vote.

17. Mr. BRACOPS (Belgium) could not agree to the Egyptian representative's suggestion that the word "may" should be replaced by "shall" in the Belgian amendment (A/C.3/L.513). That change would completely alter the meaning of the amendment, the very purpose of which was to prevent the forced application of the Convention to certain territories.

18. The representative of Egypt had also said that the proposed article would be a negative one. That was not necessarily so; in point of fact, everything depended on the attitude of the State which availed itself of the clause. So far as Belgium was concerned, it could not be accused of having failed to fulfil its responsibilities to the peoples under its administration.

19. The French amendment (A/C.3/L.521) added a useful clarification to the Belgian amendment, and he was glad to accept it.

20. The working procedure advocated by the United Kingdom seemed to be very wise, because it would give the persons concerned more time and would thus increase their chances of arriving at a compromise text.

21. Mr. MARRIOTT (Australia) failed to understand why the Belgian amendment (A/C.3/L.513) and the United Kingdom amendment (Economic and Social Council resolution 587 E (XX), annex A) had led to so prolonged and so emotional a debate. It was not the first time the Committee had studied similar clauses; moreover, it was not at all surprising that the United Kingdom delegation should point out that certain territories for the international relations of which the United Kingdom was responsible might wish to decide themselves whether or not they wished to be bound by an international agreement by which the United Kingdom, for its part, was prepared to be bound. Nor was it any more surprising that the representative of Belgium had said that some dependent territories had not yet reached a stage of development that would permit them to benefit by the provisions of the Convention.

22. In that connexion, Article 73 of the Charter should be borne in mind. Some speakers, basing themselves on paragraphs a and b of that Article, had said that development should be progressive in the political field (paragraph b) but not in the economic, social or educational fields (paragraph a). Yet no one could really deny the fact that economic, social and educa-

tional advancement inevitably took some time, regardless of the status of the people concerned.

23. It was obvious that a convention could not be applied to a territory when the conditions essential to its implementation did not exist in that territory.

24. That seemed to be admitted by the representative of Saudi Arabia, for example, when he stated that his Government reserved the right to withhold its signature from a given convention, for the time being, because conditions within the country did not at that time accord with the requirements of the Convention concerned. That implied that his Government, acting in the spirit of the provisions of the Convention would progressively alter the conditions prevailing in the country and that it would later be in a position to sign the agreement. Thus the progressive development referred to in Article 73 did not apply only to dependent territories, and it was not only in the case of such territories that the signing of a convention might be delayed; even sovereign States might consider it premature at a given moment to sign a convention.

25. To assume that conventions should not contain territorial clauses was to assume that there was no difference, from the social and educational point of view, between the population of the metropolitan country and that of the dependent territories. Undoubtedly, there were cases in which a convention could immediately be applied to both populations; but often the implementation of the convention could not be simultaneous, and had to be postponed in the dependent territory until the population progressively achieved the necessary degree of development.

26. The United Kingdom had been criticized for having stated that the Convention should not be applied automatically to some of the most advanced dependent territories. But the United Kingdom Government could not be blamed for having granted a considerable measure of self-government to some of the territories for whose international relations it was responsible, and for being unable for that reason to commit itself to enforce the provisions of the Convention without the consent of those territories. Surely the United Kingdom could not be expected to bypass the political organs of the territories and coerce them, notwithstanding their constitutional rights, to accept the provisions of the Convention.

27. It would be interesting to know what attitude the States criticizing the United Kingdom would take with regard to members of the Committee who were not administering Powers but who were responsible by treaty for the international relations of another territory. He wondered, for instance, whether they felt that on signing the Convention India would *ipso facto* oblige Sikkim and Bhutan to enforce the provisions of the Convention.

28. Much had been said, in connexion with articles 4 and 5 of the draft Convention, about the principle of universality, and many delegations had pointed out that as many States as possible should be enabled to sign or accede to the Convention. From that point of view, the Committee would certainly be wrong to reject a territorial clause. The absence of such a clause would prevent some States from signing the Convention, let alone contemplating its ratification. No one would gain by such a situation, least of all the inhabitants of the Non-Self-Governing Territories.

29. Those who had suggested that the administering Powers wished to deprive the indigenous peoples of the privileges they might enjoy if the provisions of the Convention were applied to them were wrong. There was nothing in the administering Powers' attitude to justify that allegation. On the contrary, there was every indication that if the United Kingdom, for example, was reluctant to accept the automatic application of the Convention, it was because of its desire not to subtract from the constitutional rights which were already enjoyed by the dependencies concerned.

30. The members of the Committee should realize that conditions were different in the various territories, and that constitutional arrangements varied also. Those were facts—ulterior motives should not be sought where none existed. Delegations that had taken a position which would prevent some States from signing the Convention would thereby limit the scope of application of the Convention even if they signed it themselves; they could not claim any moral superiority.

31. He supported the United Kingdom delegation's suggestion, which would make it possible to draw up a revised text.

32. Mr. BRENA (Uruguay) said that the Committee was discussing both the United Kingdom proposal and the substance of the matter. The Committee should first come to a decision concerning the United Kingdom proposal, in accordance with rule 73 of the rules of procedure.

33. The closure of the debate would probably not be very useful, since the differences of opinion were differences not of form but of substance. The territorial clause raised questions bound up with the right of peoples to self-determination. Those who did not agree that certain States were entitled to determine the fate of the populations of Non-Self-Governing Territories would inevitably be opposed to the clause, regardless of the form in which it was presented. If the Committee engaged in a debate on the matter, on which it was very much divided, it might well jeopardize the adoption of the Convention.

34. In that connexion, the argument based on the fact that the Supplementary Convention on Slavery contained a territorial clause was unacceptable; a precedent was not binding and the factors which operated in the case of slavery did not apply in the case of the nationality of married women. Moreover, the Committee would be performing a useful task if it did no more than open for signature by States a text comprising the three substantive articles, the article on reservations, and the article on methods of interpretation.

35. Although the advantages of closing the debate were debatable, he would vote for the United Kingdom's proposal out of courtesy to the United Kingdom representative.

36. The CHAIRMAN said that since the United Kingdom delegation had not submitted a formal motion, a vote would not be justified.

37. Miss BERNARDINO (Dominican Republic) said that she had always been opposed to the insertion, in any international agreement, of clauses that did not respect the principle of the universality of women's rights. The Convention under consideration should be applicable—that fact could not be over-emphasized—to women in all countries, and particu-

larly to women subject to unfair or anachronistic national laws. Accordingly, her delegation would be unable to vote for a colonial clause which would exclude women in certain territories from the benefits of the Convention.

38. In view of the importance of the Convention, all the articles should be carefully studied, and all matters thoroughly discussed. In order to increase the possibility of opening the Convention for signature at the current session of the General Assembly, the Committee should ensure the fullest possible debate. She would therefore support the United Kingdom proposal if the representative of the United Kingdom should decide to submit it formally.

39. Mr. AKBAY (Turkey) said that when he had asked for time to speak before the closure of the debate he had hoped to be able to suggest a compromise text based on article 12 of the Supplementary Convention on Slavery. He was very glad to observe that other delegations more directly concerned in the matter were considering that possibility.

40. Mrs. ELLIOT (United Kingdom) noted with satisfaction that some representatives had regarded the suggestion put forward at the beginning of the meeting as a means of helping the Committee in its work. In order to prevent any loss of time, she formally proposed that the debate on the Belgian and United Kingdom amendments should be adjourned and that the Committee should begin consideration of article 7 of the draft Convention.

41. Mr. MUFTI (Syria) proposed that the meeting should be suspended for twenty minutes to enable delegations which wanted to submit a text to draft it during the interval.

*The Syrian proposal was rejected by 24 votes to 23, with 11 abstentions.*

42. Mr. BAROODY (Saudi Arabia), speaking on a point of order, pointed out that the time limit requested by the United Kingdom representative might have to be extended, because when some representatives received the new text they might wish to have time to examine it or to consult their Governments. His delegation, for its part, had no objection, since it knew what the Committee's final decision would be, and could wait as long as proved necessary. Many representatives felt that the United Kingdom representative's request should be granted as a matter of courtesy; for the same reason he would be prepared to vote for the United Kingdom proposal; but it would scarcely be conducive to efficiency to proceed immediately to consider an entirely new question, which would have to be dropped later and then taken up again. It would be better simply to adjourn the meeting than to continue a procedural debate during which he and other representatives might be tempted to reply to certain remarks. He, for his part, might point out, for example, that the Australian representative seemed to have forgotten the exact wording of the statement to which he had referred; Mr. Baroody had merely said that it was better to draw up a really good convention, even if Governments (including that of Saudi Arabia) had to wait a while before being able to sign it, than to be content with a mediocre text which the majority of Governments would be able to sign without difficulty.

43. He made a formal proposal for the adjournment of the debate.

*The proposal was adopted by 14 votes to 10, with 35 abstentions.*

The meeting rose at 4.40 p.m.