

situation regarding questions of principle before considering the draft article by article. She recalled that an important question had been raised by the representative of the German Democratic Republic. Unlike other representatives, she did not consider that three years was too long a period in which to prepare a convention, since, if a generally acceptable formula was devised, States would be more willing to accede to the convention.

39. Mr. SCHREIBER (Director, Division of Human Rights), referring to the point raised by the representative of the German Democratic Republic, said that there had been co-ordination between United Nations bodies and bodies connected with ICRC. The former had been apprised of the comments made at the sessions of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts convened by ICRC. In fact, the document circulated at the previous session contained an extract from the report of the Conference of Government Experts dealing with the topic.⁶ There had been exchanges of views between the secretariat of ICRC and the United Nations Secretariat, and liaison would be maintained as far as possible.

40. Mr. PAPADEMAS (Cyprus) said that at the previous session no delegation had opposed the adoption of the draft articles and he therefore thought that there was a consensus in favour of their adoption. They simply needed to be considered article by article, and consequently the sponsors of amendments should indicate whether they wished to maintain them or whether they had altered their position. He appreciated the at-

titude of the United Kingdom delegation, which had indicated that it would not press three of its amendments. There was no need to give conventions time to mature; it was only necessary to agree upon them and, in the case of the draft under consideration, ensure that no obstacles arose, in view of its humanitarian nature.

41. The CHAIRMAN said that there seemed to be a consensus to the effect that the draft should be considered article by article, that the sponsors of amendments should be invited to state their position regarding them, and to give the floor to those who wished to make general statements. If there were no objections, he would take it that the Committee agreed to that procedure.

It was so decided.

42. Mr. SCHREIBER (Director, Division of Human Rights), in response to a request from the representative of Morocco, read out article 3 of the Geneva Conventions of 1949 and confirmed that one of the additional protocols to be studied at the Diplomatic Conference to be held at Geneva dealt with armed conflicts that were not of an international nature and therefore supplemented the article he had read out.

43. Mrs. WARZAZI (Morocco) thanked the Director of the Division of Human Rights for reading out the article and for his information and said that article 2 (b) of the draft convention accorded with article 3 of the Geneva Conventions. It was very important to the African countries that the draft articles should cover non-international armed conflicts in view of the struggle being waged by the national liberation movements.

⁶ A/8777, annex III.

The meeting rose at 12.15 p.m.

1992nd meeting

Thursday, 11 October 1973, at 10.50 a.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.1992

Organization of work

1. Mr. BERK (Turkey), Rapporteur, drew the attention of the Committee to General Assembly resolutions 2632 (XXV) and 2837 (XXVI) on the rationalization of the procedures and organization of the General Assembly and, in particular, to paragraph 43 of the conclusions of the Special Committee on the Rationalization of the Procedures and Organization of the General Assembly, which were contained in annex V to the rules of procedure of the General Assembly. That paragraph read: "The Special Committee, recalling General Assembly resolution 2292 (XXII), recommends to the Assembly that the reports of the Main Committees should be as concise as possible and, save in exceptional cases, should not contain a summary of the debates." Furthermore, in resolution 2292 (XXII), on publications and documentation of the United Nations, the General Assembly had approved recommendations made by the Secretary-General in that connexion, which were annexed to that resolution. According to recommendation (f) "The reproduction in the body of

a report of summaries of views that have already been set forth in the records should be allowed only in exceptional cases and after the need to do so has been clearly demonstrated and approved by the organ concerned, the financial implications having been brought to its attention." Consequently, the reports of the Committee would not include a summary of the debates unless the Committee decided otherwise in exceptional cases.

AGENDA ITEM 54

Human rights in armed conflicts: protection of journalists engaged in dangerous missions in areas of armed conflict: report of the Secretary-General (continued) (A/9073)

DRAFT INTERNATIONAL CONVENTION ON THE PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS MISSIONS IN AREAS OF ARMED CONFLICT (continued)

2. Mrs. WATANABE (Japan) said that her delegation still held the view that the protection of journalists

engaged in dangerous missions in areas of armed conflict was necessary because of the very nature of their profession and duties. Therefore, and in view of the complexity of the problems involved, her delegation supported the aims of the draft articles contained in annex I to document A/9073, and expressed its appreciation to the countries which had taken part in its preparation or submitted amendments. Her delegation was in favour of the adoption of an international convention, on the understanding that such an instrument would retain the status of a procedural agreement so that the implementation of its provisions would not affect the sovereignty of States or, in any substantive way, alter or expand the context of the Geneva Conventions of 1949.

3. Mr. VON KYAW (Federal Republic of Germany) said that his country welcomed the initiative taken for the protection of journalists in armed conflicts with a view to safeguarding the right to freedom of opinion and expression, and fully supported the efforts made by the Committee to that end. It nevertheless felt that there were also some grounds for concern. Some provisions of the draft articles and, in particular, article 5, paragraph 2, as well as some of the amendments contained in annex II to document A/9073, created the impression that, in addition to the question of the protection of journalists, it was necessary to deal with the general status of journalists, and, in particular, the extremely complex problem of defining the scope of journalistic activities. In general, his delegation had no difficulty with principles such as non-interference in domestic affairs, the sovereignty of States and respect for the laws of the country of assignment. The real problem was how those principles would be interpreted and applied by States. Moreover, they were principles that were already applied to journalists in one way or another by individual States on the basis of their national legislation and were now to be codified in an international convention. His delegation therefore considered that careful consideration should be given to all the implications of the draft articles. For example, the statement to be printed on the back of the card, as provided in article 5, paragraph 2, seemed to be too one-sided as it contained restrictive elements and made no reference to the professional rights and duties of journalists to report as fully as possible on political and military events.

4. His delegation also believed that the criteria on which the International Professional Committee should base the regulations mentioned in article 4, paragraph 2, needed further clarification. With regard to article 6, paragraph 1, he pointed out that, under constitutional and other legal provisions applicable in the Federal Republic of Germany, the cards could not be issued by government authorities, but only by the professional organizations of journalists.

5. Mrs. GERÉB (Hungary) referred to the amendments submitted by her delegation at the twenty-seventh session (see A/9073, annex II) and said that the first Hungarian amendment (*ibid.*, para. (b) (ii)) related to the second paragraph of article 3. Its purpose was to ensure that the International Federation of Journalists and the International Confederation of Journalists were also invited to participate in the work of the International Professional Committee as observers. Her delegation had submitted that amendment for the following reasons. The draft articles referred to an International

Professional Committee which would be composed of members appointed on an individual basis. Those members would only be in a position to contribute their personal opinions and practical knowledge. The participation of two international organizations of journalists would enable that Committee also to be informed of other views, based on broader international experience. Those organizations were the most representative in their field, had the experience of their affiliated organizations and were aware of the difficulties which arose in situations of armed conflict. If it was intended that the Committee should be a professional body, there was no valid reason to exclude from its work two professional international organizations which had acquired a great deal of experience in that field over the years.

6. The second Hungarian amendment (*ibid.*, para. (c)) was designed to reword the first paragraph of article 4 so as to stress that the convention established guidelines for all the activities of the Professional Committee and that the Committee should carry out its work on the basis of the provisions of the convention.

7. The third Hungarian amendment (*ibid.*, para. (h)), which was designed to modify article 16, was no longer applicable because her delegation considered the number of instruments of ratification or accession mentioned in that article to be satisfactory.

8. Finally, she expressed doubts about the effectiveness of the convention in view of the events which had occurred in the preceding few days, such as the bombing of Damascus, which constituted violations of the rules of international law.

9. Mr. JANKOWITSCH (Austria) said that he fully supported the Chairman's decision to shorten the general debate so that the Committee could proceed, as quickly as possible, to an article-by-article discussion of the draft convention.

10. The attitude of his delegation, which was a sponsor of the draft, was conditioned by three concerns. Firstly, it considered that the humanitarian and non-political nature of the draft convention, which must supplement the relevant Geneva Conventions, should be stressed. That link should be kept in mind at all times, as should the matter of co-ordination with the activities of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. It was therefore necessary to prepare a text which would be legally compatible with the Geneva Conventions and not introduce political elements which went beyond the scope of humanitarian concerns. Secondly, his delegation was of the opinion that acceptance of the draft articles must be truly universal, since it needed to be widely ratified if it was not to remain a dead letter. There must therefore be an almost complete consensus, even if the entry into force of the convention was thereby somewhat delayed. In that connexion, he did not feel that the basic points in the text had achieved maximum acceptance. Thirdly, his delegation was concerned about the realism of the draft. The convention must take account of existing realities in the world. The sovereignty of States was a factor connected with international relations which imposed certain limitations on the scope of the functions of the International Professional Committee. Moreover, freedom of the press, as stipulated in many constitutions, could present some

difficulties with respect to the standards of conduct to be observed by card-carrying journalists. It was therefore necessary to achieve a suitable balance in order to harmonize those principles.

11. Mr. SMIRNOV (Union of Soviet Socialist Republics) said that the draft articles before the Committee could serve as a basis for the development of an international instrument. The establishment of the International Professional Committee in accordance with the principle of equitable geographical distribution was in keeping with the norms of international law and universally recognized practice, and consequently article 3, paragraph 1, accorded with the interests of most States. The Soviet delegation supported the Hungarian amendment to paragraph 2 of that article, which provided that the International Federation of Journalists and the International Confederation of Journalists should participate as observers in the work of the International Professional Committee. It also supported the Hungarian amendment to article 4, paragraph 1, since it considered that the rules adopted by the International Professional Committee should be based on the provisions of the convention.

12. If journalists were to be afforded maximum protection, they must carry out their duties in compliance with instructions given by the military authorities regarding their movements and activities or bans on the gathering or transmittal of information. In that respect, article 5 was inadequate, since it only dealt with questions of form, and his delegation hoped that the Committee would consider the amendment it had submitted to include a new article 11 remedying those deficiencies (*ibid.*, para. (g)).

13. Article 15 was discriminatory, since it denied some States the right to be a party to the convention. Since the instrument was to be of a purely humanitarian nature, it should be open for signature to all States, without restrictions or discrimination.

14. Article 17, paragraph 1, provided that any dispute between two or more States parties with respect to the interpretation or application of the convention should, at the request of any of the parties, be referred to the International Court of Justice for decision. According to paragraph 2 of the same article, any State could, when it signed or ratified the convention, or acceded thereto, declare that it did not consider itself bound to have recourse to the International Court of Justice for the settlement of disputes. The Soviet delegation could not accept any such dualism regarding the position of States parties with respect to the provisions of the convention. For the settlement of disputes recourse must be had to the International Court of Justice with the consent of both parties. It was therefore necessary to amend paragraph 1 of that article.

15. Finally, his delegation considered it inadmissible that the sovereign rights of States to denounce the convention should be limited by article 18, which provided that a denunciation, notification of which had been given by a party engaged in armed conflict, should not take effect until after the conclusion of the operations to which the journalist's mission related.

16. Mr. GAHUNGU (Burundi) said that his delegation was satisfied with the text of the draft articles, but had misgivings about some of its provisions. Article 2 (a), which attempted to define the word "journalist",

seemed inappropriate, as it dealt with a very complex and varied profession which could only be defined in the broadest possible terms. With regard to article 2 (b), he agreed with the view expressed by the delegation of Morocco (1991st meeting) that the provisions of the draft should cover the national liberation movements of Africa and other continents which were struggling for the independence of their territories. Article 3 corresponded to article 10 of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949,¹ and, in that connexion, he proposed that the name of the committee to be established under that article should be the International Professional Committee for the Safety of Journalists Engaged in Dangerous Missions in Areas of Armed Conflict.

17. Mr. EVANS (United States of America) said that he had participated in the preparation of the draft articles in his capacity as a journalist with 30 years of experience. As such, he was concerned about the practical value of the effort made, and feared that it might result in meaningless bureaucracy. At the twenty-sixth session the United States delegation had submitted another set of draft articles,² and regretted that it had not been adopted, since it felt that the current text posed many problems. However, it had decided not to submit any amendments but, when considering each article, to point out the nature of the difficulties which it foresaw.

18. Mr. BOURGOIN (France) said that the time had come to discuss the draft, article by article.

19. The CHAIRMAN said that there was no objection to other delegations speaking with a view to making general observations, either at the current meeting or at subsequent ones devoted to the same item.

20. Mr. SCOTLAND (Guyana), referring to the draft as a whole, said that his delegation, while recognizing the need to afford protection to journalists, noted with concern that the draft referred only to the rights of members of that profession, without mentioning their obligations. Those should also be specified in the instrument. The scope of the terms of reference of the International Professional Committee and the role of the Red Cross also raised certain problems for his delegation. As to the definition of what constituted a non-international armed conflict, that problem could not be solved by ignoring it. Moreover, the implementation of the provisions of article 10, paragraph 1 (d), could also give rise to difficulties.

21. Mr. NENEMAN (Poland) expressed his delegation's concern over the fact that, while the draft articles were being debated, Red Cross bodies were doing work far wider in scope in connexion with the additional protocols that would bring the Geneva Conventions up to date. Those Conventions applied both to civilians and military personnel, and journalists might come under either category, but in both cases were affected by their provisions. The most prudent course of action would be to await the results of the Diplomatic Conference on the Reaffirmation of International Humanitarian Law Applicable in Armed Conflicts, which would be held early in 1974 at Geneva. Moreover, caution should be exercised in increasing the categories of internationally protected persons, as

¹ United Nations, *Treaty Series*, vol. 75, No. 973.

² See *Official Records of the General Assembly, Twenty-sixth Session, Annexes*, agenda item 49, document A/8589, para. 27.

there was a risk of reducing the degree of protection provided. Although article-by-article consideration of the draft would be useful, it should be borne in mind that by the following year changes might have been made as a result of the Conference.

22. Mrs. KOROMA (Sierra Leone) agreed with the representative of Poland that it would be wise to await the results of the Diplomatic Conference, since the

latter might adopt provisions which currently could not be foreseen.

23. The CHAIRMAN suggested that the meeting should be adjourned, and that representatives should meet as a working group for the rest of the time available.

It was so decided.

The meeting rose at 11.45 a.m.

1993rd meeting

Thursday, 11 October 1973, at 3.50 p.m.

Chairman: Mr. Yahya MAHMASSANI (Lebanon).

A/C.3/SR.1993

AGENDA ITEM 54

Human rights in armed conflicts: protection of journalists engaged in dangerous missions in areas of armed conflict: report of the Secretary-General (continued) (A/9073)

DRAFT INTERNATIONAL CONVENTION ON THE PROTECTION OF JOURNALISTS ENGAGED IN DANGEROUS MISSIONS IN AREAS OF ARMED CONFLICT (continued)

1. The CHAIRMAN observed that the Committee had decided by consensus to consider the draft articles of the international convention on the protection of journalists engaged in dangerous missions in areas of armed conflict (A/9073, annex I) article by article, on the understanding that delegations which so desired could also make general comments on the draft convention as a whole. Consultations were currently being held with a view to deciding what position the Committee should adopt: it could either take a decision to defer the question until the following session or decide to vote on some or all of the draft articles. He invited delegations to comment on that matter and expressed the hope that the Committee would be able to reach a decision on the basis of a consensus.

2. Mr. PETHERBRIDGE (Australia) said that, at the current stage of the discussion, the Committee's position on the various draft articles was not yet known. Possibly there would be some difficulties which could not be ironed out and the matter would have to be deferred until the following session; however, an article-by-article examination of the draft convention might enable more progress to be made than was thought, and, if an agreement was reached, the Committee might be able to proceed to a vote. The Committee should therefore consider the draft convention article by article before taking a decision on that point. It could then hold a further discussion on the matter in order to reach a consensus on the procedure to be followed.

3. Mr. BOURGOIN (France) endorsed the view expressed by the representative of Australia. Many delegations had not yet voiced their opinions; accordingly, the Committee should proceed to examine the draft article by article in order to ascertain the opposition to it and the prospects of reaching agreement on

certain articles and, possibly, to vote on all or part of the draft convention. His delegation hoped that, in the spirit of compromise which characterized the Committee, it would be possible to take a decision by consensus.

4. The CHAIRMAN drew the Committee's attention to rule 125 of the rules of procedure of the General Assembly under which, when a proposal had been adopted or rejected, it could not be reconsidered at the same session unless the committee, by a two-thirds majority of the members present and voting, so decided.

5. Mr. SHAFQAT (Pakistan) said that, although the Committee had decided by consensus to examine the draft convention article by article, doubts had been expressed in the statements made at the meeting of the working group that morning regarding the advisability of continuing the discussion on the item under consideration. The question had also been raised what would be the scope of the Diplomatic Conference on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, to be held at Geneva in 1974, and to what extent that Conference would consider in detail the matters dealt with in the draft convention. The Committee might therefore wait until the work of the conference was completed before taking a decision on the matter and, should it prove necessary, might possibly elaborate a new draft convention. He would welcome more detailed information regarding that Conference.

6. Mr. SCHREIBER (Director, Division of Human Rights) said that, having conferred with the observer appointed by the International Committee of the Red Cross (ICRC) to follow the work of the General Assembly at its current session, he was in a position to provide information regarding the Conference which was to be held at Geneva in 1974. Following the deliberations of ICRC and at the two sessions of the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts, held in 1971 and 1972, the Swiss Government had decided to convene a conference of plenipotentiaries at Geneva during February and March 1974. Two draft protocols to the four Geneva Conventions of 12 August 1949¹ which had

¹ United Nations, *Treaty Series*, vol. 75, Nos. 970-973.