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MEETING**

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Chairman: Mrs. Aase LIONAES (Norway).

In the absence of the Chairman, Mr. López (Philippines), Vice-Chairman, took the Chair.

AGENDA ITEM 33

Draft International Covenants on Human Rights (E/2573, annexes I, II and III, A/2907 and Add.1-2, A/2910 and Add.1-6, A/2929, A/3077, A/C.3/L.460, A/3525, A/3588, A/3621) (continued)

ARTICLE 6 OF THE DRAFT COVENANT ON CIVIL AND POLITICAL RIGHTS (concluded)

1. Sir Samuel HOARE (United Kingdom) stressed the fact that, under his country's criminal law, a person under the age of eighteen could not be sentenced to death. Nevertheless, since he considered that it was the Committee's duty, in drafting the Covenants, to secure the largest possible area of agreement, he had thought it was unwise to include in paragraph 5 of article 6 the phrase "persons below eighteen years of age", which certain countries would apparently find it difficult to accept. He had accordingly voted against that phrase.

2. He regretted that the Committee had not seen fit to take a separate vote on the words "shall not be imposed for crimes committed by persons below eighteen years of age", in accordance with the motion made at the preceding meeting by the representative of China and supported by the representative of Canada. If only as a matter of courtesy the Committee should have accepted a motion which was perfectly in order and which there was no reason at all for rejecting.

3. Mr. SMALL (New Zealand) said he approved of the purpose of the Netherlands amendment (A/C.3/L.651), since it would be useful to enumerate the cases in which deprivation of life could be regarded as lawful. He had, however, abstained from voting on the amendment, because the proposal required more careful consideration than the Committee had been able to give it.

4. The New Zealand delegation had voted against the sentence "No one shall be arbitrarily deprived of his life", which not only added nothing to the article, but introduced a regrettable element of uncertainty into it. As that sentence had been adopted, the New Zealand delegation had abstained from voting on article 6 as a whole.

5. He had no objection in principle to the revised text of paragraph 2, but his delegation had preferred the original text (E/2573, annex I B) and, to indicate that preference, had been obliged to vote against the Working Party's proposal (A/C.3/L.655 and Corr.1).

6. The beginning of the text proposed by the four Powers for paragraph 3 (A/C.3/L.657) was superfluous and made an otherwise satisfactory clause less clear. He had therefore voted against the phrase in question and had abstained from voting on the paragraph as a whole.

7. He had also been obliged to abstain from voting on paragraph 5, because under New Zealand law the death penalty could be imposed if the convicted person had reached the required age at the time when he was sentenced. As in the United Kingdom, however, the sentence was not necessarily carried out if the sentenced person had been a minor when the crime was committed.

8. Mr. DELHAYE (Belgium) said he had voted against the Colombian-Uruguayan proposal (A/C.3/L.644) because he considered that the Covenant could not be the kind of document it was intended to be unless world realities were taken into account. He had also been unable to support the Costa Rican amendment (A/C.3/L.648) because he could not agree that a simple declaration should replace the whole of article 6.

9. He was glad that the Committee had adopted the sentence "Every human being has the inherent right to life" by a large majority, but regretted that it had rejected the second sentence of the amendment submitted by his own and four other delegations (A/C.3/L.654). When the United Nations clearly showed the great importance which it attached to the right to life, it was regrettable that the Organization seemed to show no concern for the fate of unborn children.

10. The adoption of the clause "in force at the time of the commission of the crime and" had compelled the Belgian delegation to abstain from voting on paragraph 2 as a whole, since that provision was not in conformity with the Belgian penal code.

11. As Belgium had ratified the Convention on Genocide, he had voted in favour of the four-Power amendment (A/C.3/L.657), although he would have preferred the first phrase to be omitted. He had also voted in favour of paragraphs 4 and 5. With regard to paragraph 5, he regretted, as undoubtedly did all those who wished the Covenant to be applied throughout the world, that the phrase "persons below eighteen years of age" had been adopted by such a small majority.

12. The Belgian delegation had voted in favour of paragraph 6, but had abstained from voting on the article as a whole, because while recognizing the fundamental importance of the text it had misgivings about certain of its provisions.

13. Mr. CURRIE (Canada) said he had been unable to support the Netherlands amendment (A/C.3/L.651) because the proposed list did not enumerate all the cases in which death was not considered to be imposed in violation of article 6. He had also been unable to vote in favour of the second sentence of the five-Power amendment (A/C.3/L.654) to paragraph 1, since that provision might be interpreted as prohibiting any measure which sought to protect the mother, when her life was in danger, to the detriment of the unborn child. The Canadian delegation had abstained from voting on article 6 as a whole largely because the sentence "No one shall be arbitrarily deprived of his life" had been adopted.

14. The Canadian delegation had supported the Working Party's text of paragraph 2 (A/C.3/L.655 and Corr. 1), although it was not absolutely flawless. The phrase "in force at the time of the commission of the crime" duplicated the first two sentences of article 15 and contradicted the third sentence of that article. The words "final judgement" were not quite clear; to the Canadian delegation, they meant that a death sentence could not be carried out until the sentenced person had had an opportunity to appeal.

15. There was no justification for providing that one group rather than another should be exempt from the death penalty. It was, moreover, extremely difficult to agree on a precise definition of such a group. Since Canadian law did not expressly provide that sentence of death could not be imposed for crimes committed by persons below eighteen years of age, he had been obliged to abstain from voting on paragraph 5. He regretted that, by rejecting the proposal that the two parts of that paragraph should be voted on separately, the Committee had not given him the opportunity of supporting the part of the text which related to pregnant women.

16. Begum JEHAN-MURSHID (Pakistan) said she had voted in favour of the text of paragraph 3 proposed by the four Powers (A/C.3/L.657) because her country had already ratified the Convention on Genocide. Although wholly in favour of the text of paragraph 4 drawn up by the Commission on Human Rights (E/2573, annex I B), she had abstained from voting on that paragraph, which had become paragraph 5 in the final text of article 6, because the inclusion of the phrase "persons below eighteen years of age" gave rise to problems which the Committee had been unable to solve satisfactorily.

Organization of work

17. Mr. ROSSIDES (Greece) said he wished to make a few remarks about the future work of the Committee. He recalled that, at its eleventh session, it had considered the item "Interim measures, pending entry into force of the Covenants on Human Rights, to be taken with respect to violations of the human rights set forth in the Charter of the United Nations and the Universal Declaration of Human Rights" (Item 60 of the agenda of the eleventh session). After the discussion on that item, the General Assembly had adopted resolution 1041 (XI), in which it had decided,

inter alia, that "the Third Committee should devote enough time to its discussion of the draft International Covenants on Human Rights to be able to complete its consideration of the draft Covenants, if possible by the end of the thirteenth session of the General Assembly, for adoption by the Assembly at that session". Similarly, when the Committee had adopted its agenda for the current session, stress had been laid on the desirability of completing consideration of the draft Covenants in time for the tenth anniversary of the Universal Declaration of Human Rights, that is, by 10 December 1958. In all, however, the Committee had adopted only four articles of the draft Covenants in the course of thirty-eight meetings at the current session. As there were still sixty-two articles to be considered, it would be ten or fifteen years, at the current rate of progress, before the Covenants could be ratified. Human rights should not be merely a subject for academic discussion; many serious violations of those rights were being committed, to which the United Nations could not remain indifferent. He therefore informed the Committee that, if steps were not taken to complete consideration of the draft Covenants within a year, his delegation would be obliged, at the next session, to reopen the question of interim measures to be taken with respect to violations of human rights; he invited the members of the Committee to reflect on what those steps should be.

18. The CHAIRMAN said that, although he perfectly understood the concern of the Greek representative, he felt it would be preferable to wait until items 32 and 34 of the General Assembly's agenda had been dealt with before discussing what steps should be taken to accelerate completion of the draft Covenants.

AGENDA ITEM 32

Recommendations concerning international respect for the right of peoples and nations to self-determination (A/2957, A/3515, A/3587)

19. The CHAIRMAN recalled that, at its 656th plenary meeting, on 20 February 1957, the General Assembly had decided to postpone consideration of the agenda item entitled "Recommendations concerning international respect for the right of peoples and nations to self-determination" to its twelfth session. Those recommendations were in the form of three draft resolutions, two of which had been prepared by the Commission on Human Rights and the third by the Economic and Social Council itself. The three texts were to be found in resolution 586 D (XX), adopted by the Economic and Social Council at its twentieth session. He drew attention to the fact that the two draft resolutions of the Commission on Human Rights were to be taken together.

20. As the principle of the right of peoples and nations to self-determination had already been thoroughly discussed and only seven meetings had been reserved for the consideration of agenda item 32, he suggested that the Committee should, as far as possible, not reopen the general debate but try to keep to the three draft resolutions before it.

21. Mr. ROWELL (United States of America) wondered whether the documents before the Committee were not a little out of date in view of the events which had occurred and the developments which had taken place in the last few years and if it might not be profitable for the Committee to spend some time in a general discussion regarding those developments.

22. Mr. BAROODY (Saudi Arabia) said that it was obviously pointless to discuss in detail a question which had already been the subject of lengthy debates. Nevertheless, there had been new developments recently and the Committee might wish to take steps to try to find a satisfactory solution for the problems before it.

23. There were three draft resolutions before the Committee (Council resolution 586 D (XX)). The somewhat unusual procedure which had been adopted for their preparation might seem surprising. The Commission on Human Rights, which was normally the body competent to deal with the right of peoples to self-determination, had prepared two draft resolutions. On the pretext of co-ordinating them, the Economic and Social Council had seen fit to combine those two draft resolutions with a new proposal, which was quite different in spirit. In accordance with a practice which had not always produced the best results, the Council had proposed the establishment of an ad hoc commission to consider the question, as though it was one on which there was lively controversy. He did not wish to impugn the motives behind the Council's decision, but the value of such a solution as the appointment of a special rapporteur or body was often debatable. It was to be feared that the study to be undertaken by the ad hoc commission would have the same fate as the report on freedom of information which had been prepared some years before. However that might be, in the case of such a question as that of the right of self-determination, a study of that kind was entirely useless.

24. Furthermore, the Third Committee was not competent to find a solution to any specific problem in that field. As the Committee which dealt with humanitarian questions, it had already done all it could to help solve the problem of liberating peoples from foreign domination by including the right of self-determination in

article 1 of the draft International Covenants on Human Rights and by stating that that right was a prerequisite of the enjoyment of all other rights. A constructive step would of course be to adopt the two draft resolutions prepared by the Commission on Human Rights, but any attempt to do so would meet with opposition from some States. In view of the very limited time at the disposal of the Third Committee, it should therefore not do more than try to pave the way for negotiation and conciliation. It should seek ways of slackening the tension and strive to keep the question to the fore, so that the General Assembly might take it up again at its next session. It might, for instance, make a solemn declaration that it was in favour of negotiations being opened between nationalists and metropolitan Powers, in the hope of helping the interested parties, particularly the metropolitan Powers, to break the deadlock in which they found themselves.

25. The CHAIRMAN speaking as the Rapporteur appointed in his personal capacity by the Economic and Social Council (Council resolution 442 C (XIV)), pointed out, with regard to the usefulness of special studies and reports, that the report he had submitted on freedom of information^{1/} had been discussed in detail and that most of the recommendations it contained had been adopted.

26. In reply to a question from Miss BERNARDINO (Dominican Republic), the CHAIRMAN said that steps had been taken to ensure that the Third Committee should be given due notice when the Assembly took up, in plenary session, items within the purview of the Third Committee.

The meeting rose at 12.20 p.m.

^{1/}Official Records of the Economic and Social Council, Sixteenth Session, Supplements Nos. 12 and 12A.