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 MEETING**

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Chairman: Mrs. Georgette CISELET (Belgium).

AGENDA ITEM 64

Draft Declaration of the Rights of the Child (A/4185, E/3229, chap. VII, A/4143, chap. VII, sec. V, A/C.3/L.712 and Corr.1, A/C.3/L.713, A/C.3/L.713/Rev.1, A/C.3/L.714-732) (continued)

PREAMBLE (continued)

Sixth paragraph (continued)

1. Mrs. CHERNYAVSKAYA (Byelorussian Soviet Socialist Republic) supported the first Soviet amendment (A/C.3/L.712 and Corr.1), concerning the sixth paragraph of the preamble to the draft Declaration of the Rights of the Child (E/3229, para. 197, resolution 5 (XV)), since the Declaration should be addressed in the first instance to States and not to individuals. In all previous international instruments, a request to ensure observance of the principles set forth had been addressed by the General Assembly to the contracting parties. In that connexion, she quoted the last paragraph of the preamble to the Universal Declaration of Human Rights, which should serve as a guide. Moreover, the Soviet amendment took account of practical considerations. In the modern world, only Governments since they had the power to enact laws and possessed sufficient financial resources, were actually in a position to improve the status of the child.

2. She also supported the second Soviet amendment (A/C.3/L.712 and Corr.1), calling for the addition of a new paragraph at the end of the preamble, as a positive means of giving effect to the principles enumerated. She did not agree that the Declaration should not refer to methods of implementation. Besides, the draft already provided for some such methods, as, for example, in the third paragraph of the preamble; the USSR amendment was therefore in harmony with the text.

3. Her delegation had no objections to the amendments submitted by Afghanistan (A/C.3/L.716) and the Philippines (A/C.3/L.720) concerning the paragraph in question.

4. Mr. MEHTA (India) was inclined to support the Afghan and the Philippine amendments. He strongly supported the Netherlands amendment (A/C.3/L.714). The proposed text not only included everything that was enumerated in the USSR amendment, but also included parents, who had specific obligations towards their

children, and voluntary organizations; which it would be a pity to omit. Moreover, the order of enumeration adopted by the Netherlands seemed the most sensible. The Commission's text of the sixth paragraph might be replaced by the first part of the Philippine amendment (A/C.3/L.720), up to the words " ... herein set forth", followed by the text proposed by the Netherlands.

5. With regard to the new paragraph proposed by the Soviet Union, he thought that the word "appeals" was not warranted in a declaration. Moreover, the new paragraph would actually be a repetition of the final part of the sixth paragraph.

6. Mr. MALITZA (Romania) supported the Soviet amendment to the sixth paragraph. In its resolutions, the General Assembly called upon Governments, not individuals. In so doing, it was merely observing a principle stated in the United Nations Charter. The order suggested by the Netherlands would convey the impression that the Assembly could address itself directly to individuals without the necessity of going through Governments.

7. The Romanian delegation also supported the new paragraph proposed in the Soviet amendments; the text suggested would be an excellent final paragraph for the preamble. The new paragraph would not merely be a repetition of the final part of the sixth paragraph but would give greater clarity to the appeal addressed to Governments and draw their attention to the importance of legislation. Indeed, the application of each of the principles would seem to require action by the State. At the 911th meeting, some representatives had pointed out that the Government should act only when individuals were in default, but the dark picture of the situation of many children showed that individuals, with the limited means at their disposal, had in fact defaulted. An appeal should therefore be made to Governments, for their co-operation was essential.

8. Mrs. MANTZOULINOS (Greece) supported the amendments of Afghanistan and the Philippines. The Netherlands amendment was also wholly in keeping with the views of the Greek delegation as Greece was a country which had always upheld the role of the family and recognized the importance of voluntary organizations.

9. Mrs. KUKHARENKO (Ukrainian Soviet Socialist Republic) did not understand how a proclamation of the rights of the child could be conceived of without regard for the effective observance of those rights. Parents should, of course, look after their children, but they could not of themselves ensure observance of all the rights of the child. Only Governments could build schools and clinics, train teachers and enact the necessary laws.

10. When, in the preamble, the General Assembly appealed for the recognition and observance of the principles set forth, it should address itself first to

Governments, as it had done in the preamble to the Universal Declaration of Human Rights. Individuals were not subjects of international law, and the United Nations could not appeal to them except through their Governments.

11. The new paragraph proposed by the Soviet Union was not merely a repetition of the final part of the sixth paragraph. It appealed to States to bring their legislation into conformity with the principles stated, leaving it to each State to judge what measures it should adopt. The effect of that appeal could only be to prod Governments into revising certain statutes based on outdated ideas in order more effectively to protect the rights of the child.

12. For all those reasons, the Ukrainian delegation supported the USSR amendments.

13. Begum Aziz AHMED (Pakistan) regarded the changes suggested by the Netherlands (A/C.3/L.714) as very much to the point and thought that they would strengthen the text even more than the Philippine amendment (A/C.3/L.720). In all countries the work of voluntary organizations on behalf of children was worthy of the highest praise. That was particularly true in her country, where women's voluntary organizations did laudable work for children by setting up schools, colleges, clinics and hospitals; the declaration should by right be addressed to them also. The Pakistan delegation asked all the members of the Committee to support the Netherlands amendment.

14. Mr. YOLGA (Turkey) congratulated the Philippine delegation on its endeavour to simplify the text by avoiding repeated reference to the Universal Declaration of Human Rights. However, to ask that children should enjoy only the rights and freedoms set forth in the declaration dealing specifically with them would limit the scope of the declaration and make it applicable strictly to children and not to the adults of tomorrow, the future citizens of every country. The child should enjoy not only special rights because of his age, but all fundamental human rights and freedoms. In order not to defeat the true purpose of the Declaration of the Rights of the Child, the Universal Declaration of Human Rights should be mentioned in the preamble. Moreover, the effect of linking too closely the rights and freedoms proclaimed in the Declaration of the Rights of the Child was to restrict the meaning of the concept of freedom, which actually was less broad in the case of children than in the case of adults. His delegation therefore considered that the phrase "and be enabled to grow up to enjoy" should be retained and that the words "rights and freedoms herein set forth" in the Philippine amendment should be replaced by the words "fundamental rights and freedoms".

15. The text suggested by the Philippines for that part of the sixth paragraph beginning with the words "... and calls upon" was more satisfactory than the original. The words "local authorities", which would be fitting in a more technical document, were not suitable in a declaration, which should be drafted in general terms.

16. Mrs. LEFLEROVA (Czechoslovakia) supported the Soviet Union's first amendment unreservedly. Like all United Nations documents, the Declaration should be addressed primarily to Member States. In order to obtain general agreement, the formula employed in the Universal Declaration of Human Rights might perhaps be adopted.

17. The new paragraph proposed in the Soviet amendments (A/C.3/L.712 and Corr.1) was completely satis-

factory. If the principles set forth were to be put into practice, provision must be made for the adoption of practical measures. Experience had shown that parents, although basically responsible for the care and protection of their children, were not in a position to carry out all their obligations. The enjoyment of the rights of the child could be ensured by appropriate legislation coupled with the joint efforts of parents, local authorities and Governments of States.

18. Mrs. NYUN HAN (Burma) said that she would vote in favour of the Netherlands amendment (A/C.3/L.714), which stressed the primary responsibility of the parents towards the child and recognized the importance of voluntary organizations. In Burma, such organizations, which took the place of the parents in the case of children without families, received State assistance without being under State control. On the grounds that too direct intervention by the State in the lives of private citizens was ruled out by the words "larger freedom" in the first paragraph of the preamble, the Burmese delegation would support the text submitted by the Commission on Human Rights, as amended by the Netherlands and Philippine delegations.

19. Mr. AGOLLI (Albania) recalled that the United Nations, as an organization of sovereign States, had always addressed itself and should continue to address itself primarily to its Members. The Albanian delegation did not, however, have any objection to appealing also to men and women throughout the world. The declaration must not be a vague proclamation without practical effect. States must therefore be urged to take practical measures to apply the principles set forth in it.

20. The amendments submitted by the Soviet Union improved the text of the Commission on Human Rights fundamentally, and the Albanian delegation would be glad to support them.

21. Mr. SUTANTO (Indonesia) was very much in favour of the text of the Commission on Human Rights. However, in view of the fact that the Declaration imposed on Governments a moral obligation towards children, he would agree that it should be addressed to States as the Soviet Union proposed. Nevertheless, it was also desirable to appeal to parents. The Indonesian delegation shared the Philippine delegation's view that it would be preferable for the General Assembly to proclaim the Declaration of the Rights of the Child rather than the rights themselves.

22. There was no doubt that the application of the principles would require the adoption of measures by each State. While the Indonesian delegation therefore approved the spirit behind the Soviet amendment calling for the addition of a new paragraph, it none the less considered that the idea was already expressed in the sixth paragraph of the preamble and in principle 3.

23. Mr. VIDAL GABAS (Spain) wanted a concise and clear declaration. The text as it stood was full of pointless repetition which obscured its meaning. The deletions proposed in the Afghan amendment seemed highly desirable.

24. Without doubt, men and women had a duty to provide children with opportunities for a healthy life, a good education and the other elements of well-being, but he thought that it might be too optimistic to undertake to guarantee them general happiness, which could only be the gift of God. The Spanish delegation would

have liked to propose a new version of the sixth paragraph of the preamble but could not do so since the time limit for the submission of amendments had expired; it would therefore support the Netherlands amendment.

25. No one could take the place of a child's parents, and the State's responsibilities towards children were only secondary. The Declaration should therefore be addressed to mankind and not to the Governments of States, and the Spanish delegation would vote against any proposal not in accordance with that view.

26. The CHAIRMAN reminded those members of the Committee who wished to condense the text submitted by the Commission on Human Rights, and who had not submitted amendments to that effect, that they would be able to ask for separate votes on particular phrases when the time came and could then vote against their retention.

27. Lady PETRIE (United Kingdom) thought that any reference to the adoption of national legislation, or, in other words, to measures of implementation, would be out of place in a declaration. Moreover, the new text proposed in the Soviet amendments repeated what was already said in the sixth paragraph as it stood. For those two reasons, the United Kingdom delegation would be unable to support the Soviet proposal.

28. Miss FUJITA (Japan) said that she would vote in favour of the Afghan and Netherlands amendments and the first part of the Philippine amendment.

29. Miss VERA BARRIOS (Venezuela) said that she would support the Soviet amendment because, according to the Venezuelan Constitution, in certain fields, such as the education of children, the State bore the chief responsibility. She would therefore be unable to vote in favour of the Netherlands and Philippine amendments.

30. Miss BERNARDINO (Dominican Republic) said that she would be more disposed to support the Philippine amendment if the Philippine delegation would agree to replace the word "individuals" by an expression such as "men and women".

31. Miss ADDISON (Ghana) was in favour of the amendments submitted by the Philippines, the Netherlands and Afghanistan. Voluntary organizations, and women's organizations in particular, did much important work in Ghana for which the Government could not as yet assume responsibility. Organizations of that kind should therefore be mentioned in the Declaration. She hoped that the Netherlands and Philippine delegations would hold consultations with a view to submitting a joint amendment.

32. Mr. BOUQUIN (France) had not been convinced by the arguments put forward by the supporters of the Soviet amendments. Indeed, he feared that they were still confusing a declaration, which was addressed to mankind, with a convention, which imposed obligations on States. The French delegation whole-heartedly supported the opinions expressed by the representatives of Argentina, Italy and Spain. In France also, the State was at the service of man, and not man at the service of the State. He quite understood that other delegations might have a different view. He could not, however, understand why they should claim that it was contrary to United Nations usage to address the men and women of the whole world rather than Governments. The Charter was a proclamation by

"the peoples of the United Nations", and the word "Government" did not appear in the preamble to the Universal Declaration of Human Rights. Resolutions of the General Assembly were addressed to Member States, but despite what had been said by the Romanian representative, the Third Committee was drafting a declaration and not a resolution.

33. The expression "as well as upon local authorities and national Governments", which was very different from the phrase used in the text of the Social Commission, was a compromise formula which should be retained. The French delegation could not support the Soviet amendment to the sixth paragraph of the preamble. On the other hand, it would support the Netherlands amendment (A/C.3/L.714), which stressed the importance of voluntary organizations. It had no objection to the amendments put forward by the Philippines (A/C.3/L.720) and Afghanistan (A/C.3/L.716) and would probably support them. However, it would be glad if those delegations could agree on a joint text that would be acceptable to the whole Committee.

34. Mr. BOULOS (Lebanon) could not accept the Soviet amendment because in Lebanon it was the individual who was the basis of the social hierarchy and the fundamental source of power. On the other hand, he would gladly vote in favour of the Netherlands amendment, and he hoped that the Philippine and Afghan delegations would be able to present a joint text.

35. Mr. KETRZYNSKI (Poland) supported the Soviet amendment to the sixth paragraph of the preamble. A number of pertinent and convincing arguments had already been advanced on its behalf, and the Polish delegation would not recapitulate them. It would, however, urge the members of the Committee not to enter into political considerations which had nothing to do with the question under discussion. All countries recognized that the child could only develop fully if the family, voluntary organizations and the public authorities all played their part in putting the Declaration into effect. The Soviet amendment emphasized the role of the State, but there was no political thought behind it. Whatever the political system of a country, the State's role was fundamental because only the State could perform certain functions, for example, those relating to health. It was quite in order, therefore, to stress the responsibility of the public authorities, and to do so did not imply any disparagement of the part played by individuals or private groups.

36. He felt that the paragraph which the USSR proposed should be added to the preamble was far from superfluous, because the Committee was not drafting a convention but a declaration, which was not a text formally binding upon States. It was important, therefore, to place a moral obligation upon them, for without it the declaration would not have the desired force.

37. Mr. MALITZA (Romania) said, in reply to the French representative, that the Preamble to the Charter expressed the spontaneous support of the peoples of the world for the United Nations, and it was therefore to be expected that the word "peoples" should be mentioned. On the other hand, certain provisions, such as Article 10, concerned States, and, in the Universal Declaration of Human Rights, the General Assembly had expressly called upon Governments to disseminate that Declaration throughout the world. To proclaim the rights of the individual was one thing; to invite individuals to secure those rights for themselves was another, but when it was a question of giving effect

to those rights, States must be addressed, because it was the State which had the power to ensure that those rights should be respected and the State which must render an account of its efforts to the United Nations.

38. Mr. CUEVAS CANCINO (Mexico) noted that one effect of the amendments proposed by certain delegations, in particular the Philippine delegation, was to delete the word "recognizes" from the phrase "recognizes and proclaims". He hoped that in drafting the final text of their amendments the sponsors would not make that omission, for otherwise the rights of the child would appear to have existed prior to the declaration and to have been already recognized by some higher authority.

39. Mr. BAROODY (Saudi Arabia) agreed with the Polish representative, that members of the Committee should rise above ideological quarrels and endeavour to reach agreement. He expressed the hope that the Netherlands, Philippine and USSR representatives would be able to prepare a joint text which would not be too uncompromising in its wording.

40. As far as the new text proposed by the USSR was concerned, he thought that there was everything to be said for avoiding references to vague concepts. When the French representative said that the State should serve the individual, he was thinking of the State and the individual as abstract entities; it would be best to avoid such parallels if tangible results were to be achieved.

41. He suggested that the Soviet representative should replace the words "to all States to bring their legislation into conformity with these principles" by the words "to all peoples and all nations (or all States) to encourage legislation for the promotion of these principles". Such a formula might prove satisfactory to the States which advocated the adoption of suitable legislation without at the same time imposing any definite obligation upon those which refused to commit themselves.

42. Mr. CHRISTOV (Bulgaria) thought, as did the Mexican representative, that the Philippine amendment omitted an important part of the sixth paragraph and that the text would lose much of its force as a result.

43. With regard to the question to whom the Declaration was to be addressed, the Bulgarian delegation failed to see why some members wished to lay stress on voluntary effort. However solemn a document it might be, its purpose was not to launch an appeal to humanity but to recommend to States that they take the measures needed to improve the lot of the innumerable children who were still suffering from poverty, malnutrition and disease. There could be no doubt that the State served man and it was for that very reason that it must be asked to take the measures needed. He would therefore vote for the Soviet amendment.

44. Mrs. CASUSO (Cuba) considered that the individual human being was the basic unit in society. However, since the States were responsible to the United Nations and, in many instances, only the State could take effective action, she was not opposed to the Soviet amendment to the sixth paragraph of the preamble. She suggested as a compromise solution the addition of the words "as individuals" at the end of that amendment.

45. She hoped that a list would be prepared of the amendments which various delegations had proposed to make to the preamble.

46. The CHAIRMAN suggested the closure of the discussion on the sixth paragraph of the preamble and on the amendments relating to it.

It was so agreed.

Third paragraph (continued)

47. Mrs. LUPINACCI (Italy) said that her delegation had revised the original text of its amendment to clarify the meaning and to meet the objections raised by some delegations. The new text (A/C.3/L.713/Rev.1) possessed the advantage of distinguishing between the safeguards which the child needed for its physical and mental development and the legal protection which it could and should enjoy from before its birth. It would seem that the legal protection of the child from the moment of his conception could apparently be accepted even by those States in which the law permitted abortion under certain conditions. Some exceptions to that principle might indeed be allowed provided the public authorities intervened in order to prevent abuses. Since humanity owed all the best in itself to the child, it was only just that it should first of all recognize the child's right to be born.

48. Mrs. ROSS (Denmark) wondered whether the French expression "protection juridique" was the exact equivalent of the phrase "legal safeguards" used in the English text of the amendment.

49. Mr. KITTANI (Iraq) recalled that the point raised in the Italian amendment had already been carefully examined in the Commission on Human Rights, where important arguments had been advanced by various delegations. Since the Third Committee was preparing a universal declaration, care should be taken to avoid including principles which might be contested by some States on social, political or religious grounds.

50. With the exception of the right of inheritance, the child could not enjoy any right while he was unborn. As Iraqi law recognized that the child possessed that right, he could support the Italian amendment but, since the principle was not universally recognized, it could not be included in the Declaration. Therefore the only possible interpretation of the amendment was that the child had the right to live from the moment of his conception. That was a dangerous statement to make since there were some States in which social conditions prevented the adoption of such a principle and it was possible that their number would increase considerably. Consequently, if the intention was that the Declaration should continue to be valid for some decades, the Italian amendment should be rejected.

ORGANIZATION OF WORK

51. Mrs. CASUSO (Cuba) suggested that the Committee should not meet on Friday, 2 October, on the occasion of Rosh Hashana.

52. After an exchange of views in which Mr. FARHADI (Afghanistan), Mr. BAROR (Israel) and Mr. BAROODY (Saudi Arabia) took part, the CHAIRMAN proposed that the Committee should hold two meetings on 2 October, as usual.

It was so decided.

The meeting rose at 1.10 p.m.