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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, A/C.3/L.522, A/C.3/L.523 and Add.1) (continued)**

**NEW ARTICLE (continued)**

1. Mrs. ELLIOT (United Kingdom) said that the revised United Kingdom proposal (A/C.3/L.522) was modelled on article 12 of the Supplementary Convention on the Abolition of Slavery, the Slave-Trade, and Institutions and Practices Similar to Slavery signed at Geneva in 1956. Her delegation had replaced its original text (Economic and Social Council resolution 587 E (XX), annex A) by the new proposal in the hope that the latter would meet with majority support, as the corresponding article of the Supplementary Convention on Slavery had done. She realized that some delegations had already objected to such a formula, but they would object to any territorial clause, regardless of its merits and of the inconsistency of their position with Article 73 of the Charter of the United Nations. To be logical, any delegation that had voted in favour of the text in the Supplementary Convention on Slavery should support the proposal before the Committee.

2. Her delegation would take a position on the proposal submitted by Chile and Peru (A/C.3/L.523 and Add.1) after the text had been explained by its sponsors.

3. Mr. TOWNSEND EZCURRA (Peru) said that debate on the territorial application clause was as old as the United Nations itself. Two seemingly irreconcilable views were held: first, that metropolitan Powers should be allowed full discretion to decide whether or not the provisions of any convention were to be extended to territories they administered, and secondly, that the provisions of all conventions should be immediately and automatically applicable to all such territories. Recently, however, both sides had shown signs of willingness to make concessions; and the object of the proposal submitted by Chile and Peru was to offer an honourable and generally acceptable compromise.

4. Being himself the representative of a country which had experienced colonial rule, he would prefer to leave out the territorial application clause altogether, as did the text of the draft Convention on the Nationality of Married Women (Economic and Social Council resolution 587 E (XX)). In the modern world, colonialism was a morally indefensible anachronism. That was the idea underlying Article 73 of the Charter, and it was one which the metropolitan countries themselves were beginning to accept. Eventually, and, he hoped, with the help of the United Nations, all dependent peoples would attain their independence. In the meantime, all new conquests in the field of human rights should be shared with them.

5. The Belgian proposal (A/C.3/L.513) represented an extreme position; it was a traditional colonial clause. The United Kingdom proposal (A/C.3/L.522) was unnecessarily complicated, and might prevent some States from ratifying the Convention. The joint proposal (A/C.3/L.523 and Add.1), on the other hand, sought to reconcile the position of the metropolitan Powers with that of the peoples of the dependent territories. It did not claim to be the last word on the subject—ideally, the Convention should be universally applicable—but it was undoubtedly an improvement on the colonial clause, since it no longer left full discretion to the metropolitan Powers, but imposed definite obligations on them. Moreover, while it safeguarded the constitutional processes to which the United Kingdom attached such importance, it also obliged the metropolitan Powers to report within one year on their action in extending the application of the Convention to the territories they administered, thereby providing a useful means of control.

6. If either of the two extreme views held in the Committee were to prevail, the result would be to deter some States from ratifying the Convention. He therefore hoped that the joint proposal, which offered a practical solution, would be generally acceptable.

7. Mr. BRACOPS (Belgium) said that while he appreciated the efforts of the United Kingdom, Peruvian and Chilean delegations to achieve a compromise, he was unable to accept their texts, as they did not meet his country's legitimate interests. He therefore maintained his proposal (A/C.3/L.513), as amended by France (A/C.3/L.521).

8. Mr. DIAZ CASANUEVA (Chile) observed that only an intelligent effort to reconcile the divergent views which had so often been aired in the Committee would make it possible for the draft Convention to be adopted at the current session of the General Assembly. Unless something were done to meet the constitutional difficulties of the metropolitan Powers, they would be unable to sign it; on the other hand, to surrender the principle of universal application would be to contravene the United Nations Charter and to make the

Convention unacceptable to many other States. The joint proposal (A/C.3/L.523 and Add.1) sought to meet the metropolitan Powers half way, while maintaining the principle of universality and extending the benefits of the Convention to dependent peoples by progressive stages. He appealed to all delegations to accept that compromise.

9. Mr. CERNIK (Czechoslovakia) said that a humanitarian instrument such as the Convention on the Nationality of Married Women should apply to all territories, whether Trust, Non-Self-Governing, or colonial, so that its benefits might be enjoyed by women everywhere. Since both the Belgian proposal (A/C.3/L.513) and the United Kingdom proposal (A/C.3/L.522) would restrict the application of the Convention, he was unable to accept them. The joint proposal (A/C.3/L.523 and Add.1), too, was based on the assumption that some territories would be excluded from the Convention, the application of which would be extended to them only gradually, at the discretion of the metropolitan Powers. He was therefore unable to support it.

10. Mr. GOMEZ ROBLEDO (Mexico) warmly supported the joint proposal (A/C.3/L.523 and Add.1), which struck a happy balance between the desire for universality and the need for constitutional safeguards. He would be happy to co-sponsor the proposal.

11. Mr. TSAO (China) said that the United Kingdom proposal (A/C.3/L.522) was acceptable to his delegation, because it was based on a text to which the Chinese delegation had already given its approval. However, he welcomed the joint proposal (A/C.3/L.523 and Add.1), which covered the same ground but was clearer and shorter than the United Kingdom text. He hoped that the United Kingdom delegation would withdraw its own text in favour of that new proposal.

12. The Belgian proposal (A/C.3/L.513), even as amended by France (A/C.3/L.521), left the application of the Convention to dependent territories entirely to the discretion of the metropolitan Powers. It was thus too extreme and too restrictive, and he would be compelled to vote against it. The constitutional difficulties of the metropolitan Powers would be met by either of the other two proposals.

13. Mr. BAROODY (Saudi Arabia) pointed out that article 12 of the Supplementary Convention on Slavery, on which the United Kingdom proposal was modelled, had been adopted after much political maneuvering and that many delegations had voted for it only on the understanding that it would not constitute a precedent for future conventions.

14. According to the United Kingdom delegation, the purpose of its proposal was to enable metropolitan Powers to consult their dependent territories on the question whether they wished to accede to the Convention, in accordance with their constitutions. But those constitutions had been imposed on the dependent territories by the colonial Powers. They were mostly high-sounding documents which either made oblique references to self-determination or were completely silent on the subject. Whatever their purpose was, it was not to enable the territories to become independent.

15. A long and complex debate on the colonial clause had been going on in the United Nations for years. The arguments and counter-arguments had been endlessly repeated, and were known to all. The metropolitan Powers glossed over the economic benefits which they derived from their colonies, and emphasized their cultural and educational mission. They sought to interpret Article 73 of the Charter in such a way as to reaffirm their control over the territories they administered; but analysis of that Article would show that the metropolitan Powers failed to respect its provisions. Their sanctimonious references to constitutional processes were belied by the open rebellions which had taken place in the dependent territories, and by the armed force they were compelled to use to prevent the peoples of the colonies from asserting their independence. Those were the basic facts of the situation, and the Committee should bear them in mind.

16. Turning to the joint proposal (A/C.3/L.523 and Add.1), he said that although he did not doubt the good intentions of the sponsors, the words "in accordance with the appropriate constitutional procedure" were open to the same objections as the United Kingdom proposal (A/C.3/L.522). There was no guarantee that such procedures would be used to protect the peoples in the dependent territories or that they would not be used to give a semblance of legality to colonialist activities. It was well known that the pretext of protecting the peoples of the dependent territories had been used time and again as an excuse for continued domination by the colonial Powers. It was said that those peoples were not mature enough for self-government; they would never become so if they were given no opportunity to manage their own affairs. Furthermore, the political and economic progress that had been made by certain formerly dependent territories since they had achieved their independence showed that the protection afforded by the colonial Powers retarded, rather than encouraged, the development of such territories.

17. The joint proposal was intended to be helpful, but it would have the same effect as the United Kingdom proposal, which was designed to safeguard the economic interests of the colonial Powers. A restrictive clause was out of place in a convention which should be universal in application. Unfortunately, as the administering Powers had stated that they would not sign the Convention if such a clause was not inserted, other delegations might feel themselves obliged to accept it against their better judgement rather than have the Convention weakened by abstentions. The principle of universality had been accepted in other international instruments; there was no reason why the colonial Powers should disregard it now and insert a clause which would deprive millions of women of the benefit of the Convention. No progress could be hoped for along those lines. All peoples should be given freedom to choose whether they wished to accept the Convention or not.

18. Mr. ABDEL-GHANI (Egypt) wondered whether it was necessary to include a territorial clause in an international convention, and whether the exclusion of such a clause could render the instrument incomplete or invalid. He also wondered whether any States had in fact refused to sign an international convention because of the absence of such a clause.

A territorial clause had been included in the original draft of the Convention on the Political Rights of Women, but had been deleted by the General Assembly. The Cuban delegation had taken that decision of the General Assembly into consideration in submitting the text the Committee was discussing, which should be acceptable as it stood.

19. Citizens and subjects were granted their nationality by a sovereign State. Subjects of a sovereign State who were the inhabitants of a dependent territory could therefore possess only the nationality of the metropolitan Power responsible for that territory. Egypt had had experience of such a situation under the Ottoman Empire: its people had not acquired Egyptian nationality until their country had achieved its independence. Even the inhabitants of the Non-Self-Governing and Trust Territories had no other nationality than that of the administering Power; the Trusteeship Council had welcomed the drafting of legislation defining the national status of the inhabitants of the Territory of Somaliland under Italian administration for submission to the Territorial Council. As the inhabitants of dependent territories had no nationality of their own, he could see no necessity for inserting the clause proposed by the United Kingdom in the draft Convention.

20. In introducing her proposal, the United Kingdom representative had said that the text was the same as that of article 12 of the Supplementary Convention on Slavery; but there was no similarity between the two conventions. The Convention on Slavery dealt with an institution which did not exist in the United Kingdom but did exist in territories under United Kingdom administration; a territorial clause was therefore essential in that instance. With regard to nationality, however, there was no difference between the inhabitants of the United Kingdom and those of the dependent territories, so that there was no reason for a territorial clause in the draft Convention under consideration. He would therefore vote against all the proposals for the insertion of such a clause, and would vote for the text as it stood.

21. Mrs. ELLIOT (United Kingdom) said that she could not accept the Saudi Arabian representative's interpretation of the circumstances in which the territorial clause in the Supplementary Convention on Slavery had been adopted.

22. Replying to the Egyptian representative, she said that some of the United Kingdom's dependent territories had a nationality status distinct from that of citizenship of the United Kingdom and colonies; the dependent territories in question had therefore to be consulted before the Convention was made applicable to them; consequently, her Government would be unable to sign the Convention in the absence of suitable provisions for its separate application to such territories.

23. The practice of consulting the representative bodies of the dependent territories was precisely what those who were opposing the territorial clause were anxious to establish and was a step towards independence or self-government, in conformity with Article 73 of the Charter. To disregard the principle of consultation would be contrary to Article 73. It would be most regrettable if the United Kingdom were prevented from signing the Convention by the absence of such

a clause, which would safeguard the rights of the peoples of the dependent territories and not, as had been alleged, provide an excuse for ignoring them.

24. However, the United Kingdom was anxious that as many States as possible should sign the Convention. As its own text appeared to be an obstacle to agreement, she withdrew it and would support the joint proposal, which seemed to be more generally acceptable.

25. Mr. MESSADI (Tunisia) said it was clear from the debate that the various proposals and amendments all tended to restrict the scope of application of the Convention. He felt that any such restriction was morally indefensible, for the right to nationality was one of the human rights which the United Nations was pledged to defend. If the aim was to give all married women their full rights, it would be illogical to establish two categories of women, those of the metropolitan countries and those of the dependent territories, and allow only the former to enjoy full nationality rights. The convention should apply to all women, without discrimination.

26. It was obvious from the statements that had been made by some delegations that the application of such legislation to dependent territories involved procedural and other difficulties; but he thought that such difficulties could be overcome. At all events, the fact that they existed was not a valid reason for restricting the scope of the Convention. The Committee should encourage the development of the internal legislation of all countries towards greater conformity with international law. The joint proposal (A/C.3/L.523 and Add.1) would not have that effect; it would merely perpetuate colonialist practice, and he would therefore vote against it.

27. Mrs. GERLEIN DE FONNEGRA (Colombia) strongly supported the joint proposal (A/C.3/L.523 and Add.1). The Convention should benefit all women, without discrimination, and although its general application might raise problems for some countries, she ventured to hope that such problems would be solved satisfactorily. Colombian women, who had only recently acquired the right to vote, were particularly anxious for the scope of the proposed Convention to be universal. The fact that the first three articles of the draft Convention had already been adopted showed that there was considerable general agreement in the Committee. Everyone agreed that married women should be free to keep their own nationality or acquire another, as they saw fit; there was disagreement only on the mode of application of that principle. As all delegations really had the same end in view, it should not be difficult to reach agreement. The joint proposal was a step in the right direction; it offered a formula which was acceptable to most delegations and would ensure that the largest possible number of countries should sign the Convention. She would therefore vote for it.

28. Mr. MUFTI (Syria) said that he would vote against the Belgian proposal (A/C.3/L.513) and the French amendment to it (A/C.3/L.521) because they would not be likely to further the objectives of the Convention. He would also have voted against the United Kingdom amendment (A/C.3/L.522), which restated the Belgian amendment in a more complicated form; he was therefore glad that it had been

withdrawn, although it would in any case have been rejected by the majority of the Committee.

29. He was grateful to the Chilean and Peruvian delegations for the spirit of conciliation displayed in their amendment (A/C.3/L.523 and Add.1). The best course would be not to include any territorial clause in the Convention; if, however, the Chilean and Peruvian delegations pressed their amendment, he thought their text would be improved by the deletion of the phrase "as soon as possible", which seemed to be dangerous and unnecessary, and the phrase "within one year from the signature of this Convention", which introduced a lengthy and arbitrary procedure similar to that set forth in the United Kingdom proposal. With those deletions, the joint amendment would allow metropolitan Powers latitude to apply the appropriate constitutional procedures and to carry out consultations where necessary. It was in the interests of all delegations to enable as many States as possible to sign the Convention, and he hoped that the Chilean and Peruvian delegations would be able to accept his suggestion. If not, he would submit it as a formal amendment.

30. Article 12 of the Supplementary Convention on Slavery could not be cited as a precedent for the draft Convention on the Nationality of Married Women, as had been done by some of the colonial Powers. It was important to remember that such efforts were being made for selfish reasons, with the object of attacking the position held by the majority on the colonial issue. However, the majority position would prevail, as it was morally sound. There should be no compromise on questions of basic principle.

31. Mr. AZKOUL (Lebanon) said his delegation had always believed that the benefits of international instruments, especially social, economic and humanitarian agreements designed to improve existing world conditions, should be extended to the peoples of the dependent territories. However, it had always borne in mind the optional nature of all international instruments; the right to sign or not to sign was guaranteed to every State. It was therefore important to draft conventions in such a way that the greatest possible number of States could sign them. The Egyptian representative had raised the question whether conventions having no territorial clause were legally valid; the answer was that such conventions, while they were valid, might be difficult for some States to sign. In any event, the Third Committee's objective in debating the territorial clause must be to promote the interests of the peoples of dependent territories, and not to censure or penalize the States responsible for such territories. Political views could be aired elsewhere.

32. He regretted the withdrawal of the United Kingdom amendment (A/C.3/L.522), which proceeded from the undeniable premise that a considerable degree of self-government had been achieved in certain dependent territories and that that self-government imposed the constitutional obligation of consultation before an international agreement was entered into on behalf of the territory concerned. The political advancement of the dependent territories was a favourable development, and should be applauded; the purposes of Article 73 of the Charter would not be served by ignoring such cases. If a metropolitan

Power could not sign the Convention without undertaking to apply it in all its dependent territories, it would be confronted, if a single territory was opposed to the Convention, with the alternative either of being unable to sign for itself and all its dependent territories or of having to exert improper pressure on the unwilling territory in order to secure its consent. Neither of those courses would be consistent with the principles of self-government and independence proclaimed in the Charter.

33. The United Kingdom proposal (A/C.3/L.522) had met all the objections admirably, and was much more precise than the joint amendment (A/C.3/L.523 and Add.1), since it took all the possibilities into account. Moreover, paragraph 2 of the United Kingdom text had set forth specific conditions which could be easily checked and controlled. In certain exceptional cases, clearly-defined measures were to be taken to obtain the consent of the appropriate authorities; a further guarantee was provided by the provision that the Secretary-General should be notified when the necessary consent had been obtained. Those clear provisions were preferable to the compromise solution offered in the joint proposal, which though well-intentioned, was vague and open to misinterpretation and abuse.

34. He did not agree with the Syrian representative's objections to the joint amendment. It was quite usual even for States without dependent territories to delay signature of international agreements for one year; moreover, if that provision was deleted, contracting States would not be bound by any time limit in submitting their reports to the Secretary-General.

35. He would vote in favour of the joint proposal (A/C.3/L.523 and Add.1) although he preferred the United Kingdom text that had been withdrawn.

36. Mr. THIERRY (France) said, in reply to the Egyptian representative's questions, that all the inhabitants of the colonial territories of France were French nationals, while the inhabitants of the sovereign States within the French Union had their own nationality. He deplored the political considerations that were being injected into a debate on a purely social and technical problem, and the aspersions that had been cast on genuine efforts at conciliation such as the United Kingdom proposal. He was grateful to the Chilean and Peruvian delegations for their compromise text and would vote in favour of it; he did not share the Lebanese representative's view that there was any doubt as to its real meaning.

37. Mr. BAHNEV (Bulgaria) said it was clear that the metropolitan Powers found the joint proposal entirely acceptable. That was understandable, since that text added nothing new to the Belgian proposal (A/C.3/L.513) and the United Kingdom proposal (A/C.3/L.522). All Contracting Parties would be able to apply the Convention to some territories and not to others; the metropolitan Powers were thus provided with an escape clause. The Bulgarian delegation considered that the Committee should adopt a more progressive attitude towards the scourge of colonialism, the existence of which was contrary to the Charter of the United Nations and constituted a violation of the right of self-determination. An advance over the provisions of Article 73 of the

Charter had been made as long ago as 1948, with the adoption of the Universal Declaration of Human Rights, which provided, in its article 2, paragraph 2, that no distinction should be made on the basis of the status of the territory to which a person belonged. All members of the Committee who supported the

Declaration should bear in mind the moral obligations it imposed; all the proposals should be withdrawn and the draft Convention should be adopted without any territorial clause.

The meeting rose at 12.55 p.m.