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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.523/Rev.1 and A/C.3/L.523/Add.1 and 2) (continued)**

**NEW ARTICLE (continued)**

1. Mr. DIAZ CASANUEVA (Chile) felt obliged, in view of some of the statements that had been made concerning the proposal of which his delegation was a co-sponsor (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), to restate his country's position with regard to colonialism. Its attitude to that anachronistic system had not changed; like all the Latin American countries, it was against colonialism in all its forms. However, representatives were not taking part in the Third Committee's deliberations in order to preach anti-colonialism; their task was to overcome obstacles which would prevent certain States from signing a humanitarian convention.

2. The three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2) comprise two main elements: an explicit international commitment by States, based on Article 73 of the United Nations Charter, and a provision requiring States to report annually to the Secretary-General on the progress achieved. No one could doubt the anti-colonialist feelings of the Latin American countries; but in the opinion of the sponsors of the proposal, the position of women in independent territories would not be improved by an unduly rigid approach to the question. The Committee could not create a new world; it could only endeavour to further the well-being of as many as possible of the world's inhabitants. The progress of civilization was marked by a series of compromises between social dynamism and the statics of vested interests. The Committee should try to effect such a compromise in the case in point.

3. Mr. EUSTATHIADES (Greece) felt that the situation was confused. The efforts of the sponsors of the joint proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2) to achieve a conciliatory solution were praiseworthy, but they seemed to have gone

some distance beyond their original intention. Indeed, the joint proposal seemed to leave metropolitan States a freer hand than the United Kingdom proposal (A/C.3/L.522) that had been withdrawn at the preceding meeting; that might have been the reason for its withdrawal. However, very many members of the Committee were in favour of omitting from the Convention any clause which would have even the appearance of a colonial clause. Of course, the fate of colonialism did not depend on clauses inserted in international agreements, especially technical conventions like the one before the Committee; it depended on the strength of the colonialist States, which was, however, countered by the force of freedom and of the Charter of the United Nations. The important thing was that of adherence to the principles of the Charter, which barred any discrimination based on the status of a territory. That was the sole ground on which the Greek delegation objected to a territorial clause.

4. If some delegations wished to use the Third Committee as a battleground on which to win a colonialist victory, they would be choosing the wrong field. The Greek delegation hoped they knew that. But if they were concerned rather with the internal and constitutional difficulties of metropolitan States in regard to the application of the Convention to dependent territories, such difficulties did not concern the Committee; those problems were purely internal, and could, with good will, be considered before ratification of the Convention. In that case, States would presumably not sign the Convention until they had satisfied themselves with regard to its application to the dependent territories.

5. The Greek delegation would vote against the joint proposal because it did not want a territorial clause in the Convention under consideration to be used as a precedent, as a similar clause in the Supplementary Convention on the Abolition of Slavery, the Slave-Trade, and Institutions and Practices Similar to Slavery had been used.

6. Mr. AYALA MERCADO (Bolivia) felt that the Belgian and United Kingdom representatives had not clearly explained the difficulties which had prompted them to submit their proposals. All conventions should have universal and immediate application; a territorial clause which would restrict and delay the application of the Convention would be undemocratic. The Third Committee was concerned with basic principles, and from that point of view, there was no justification for treating women in dependent territories differently from women in metropolitan States. The argument that the people of the dependent territories had not yet reached a sufficiently high level of development was not convincing; nor were the references that had been made to the progressive nature of the provisions of Article 73 of the United Nations Charter. The metropolitan Powers should not be afraid of treating the

inhabitants of dependent territories as equals. Moreover, the Convention in some measure represented a legal and social victory, and the historical consequence of such victories in dependent territories was the stimulation of a desire for further advances.

7. The Bolivian delegation would vote against the Belgian proposal (A/C.3/L.513). It would also vote against the three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), which, though it represented a laudable effort at conciliation, merely restated earlier proposals.

8. Miss MAÑAS (Cuba) said that the fact that in some countries women who had married aliens became stateless was an injustice which must be abolished. In view of the importance of the Convention under consideration, it was important that its provisions should be extended to as many women as possible; that meant that undue perfectionism must be avoided. If the metropolitan Powers were prevented from signing the Convention because of the absence of a territorial clause, the benefits of the Convention would be withheld from the dependent territories; the result would be not to hasten the progress of those territories towards self-government and independence but to retard it. Accordingly, she would vote in favour of the three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), which was a happy compromise, but would vote against the Belgian proposal (A/C.3/L.513), which was much more restrictive.

9. Mr. TOWNSEND EZCURRA (Peru) thanked the representatives who had spoken in favour of the proposal sponsored by his delegation (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2). He wished to assure certain speakers that Peru, like all Latin American countries, was strongly anti-colonialist; however, it was capable of taking an objective view of the problem. Accordingly, it had decided to submit the above-mentioned compromise proposal, in order to ensure wide participation in the Convention, and in the belief that, given a spirit of conciliation, colonialism would ultimately disappear.

10. There were three types of territorial clause. The first provided for the application of the given instrument only at the discretion of the metropolitan State; despite the rigidity of that formula, it had appeared in several international conventions, including the Convention on the Prevention and Punishment of the Crime of Genocide, which had been signed without reservations by Saudi Arabia, Egypt and Syria. The second type provided for the application of the instrument to dependent territories unless the metropolitan State decided otherwise. The third type of clause, which appeared in only two United Nations instruments, the Articles of Agreement of the International Monetary Fund and the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others provided for automatic application to all dependent territories.

11. The three-Power proposal might be described as an advanced example of the second formula. While its sponsors regarded the third type as ideal, they believed that their text imposed important obligations on the metropolitan Powers and was not nearly as restrictive as the classical colonial clause. Moreover, the proposal provided that the metropolitan Powers should put the proper constitutional machinery in motion immediately; the delegations suggested by the

Syrian representative (701st meeting) would therefore weaken the text. The proposal was based on the premise that as many States as possible should be able to sign the Convention and that it should be applied in dependent territories. The principle of universal application was undoubtedly correct; but the facts must be faced. Since dependent territories still existed, any proposal, such as the joint text, which would prevent the metropolitan Powers from taking arbitrary action should be welcomed as a step towards achievement of the purposes of the Charter.

12. Mrs. SHOHAM-SHARON (Israel) said that the attitude of her delegation was motivated by the wish that the greatest possible number of women in the world should benefit by the provisions of the Convention. The Israel Government supported the principle of universal application but could not ignore certain political realities. It did not consider that the interests of the dependent territories would be met by preventing the metropolitan Powers from signing the Convention. She commended the spirit of compromise and conciliation of the three delegations which had submitted the joint proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2) and welcomed the change from the permissive character of the undertaking in the former United Kingdom amendment (A/C.6/L.373, point 1) to a specific obligation in the joint proposal. Her delegation would vote in favour of the joint proposal, although it preferred the wording of the new United Kingdom proposal (A/C.3/L.522), which had been withdrawn (701st meeting), since it was less vague in specifying the undertakings and measures to be taken. The changes suggested by Syria (701st meeting) would weaken the joint proposal because they disregarded the time factor.

13. Her delegation could not vote for the Belgian proposal (A/C.3/L.513).

14. Mr. PONCE (Ecuador) said that as the Convention under consideration was a legal instrument, the problem before the Committee must be considered from the legal angle. The Egyptian representative had gone to the root of the matter at the preceding meeting, when he had asked whether it was necessary to include a territorial application clause in the Convention. The legal argument for the inclusion of such a clause was stated very clearly in the French amendment (A/C.3/L.521) to the Belgian proposal (A/C.3/L.513); it derived from the fact that there were territories which had a special régime with respect to nationality. The first sentence of paragraph 2 of the text proposed by the United Kingdom (A/C.3/L.522), specified two special cases of such régimes. They were, first, the case in which, for the purpose of nationality, a non-metropolitan territory was not treated as one with the metropolitan territory—which raised questions of private international law—and secondly, any case in which the previous consent of the non-metropolitan territory was required by the constitutional laws or practices of the Contracting State or of the non-metropolitan territory—which raised questions of international public law. According to the United Kingdom, a territorial application clause was required to cover those two cases; but that was not really so.

15. The first three articles of the draft Convention (A/3059, para. 21), which had already been adopted by the Third Committee all applied to nationals of

the Contracting State. In the case of France, there was no difficulty, because the inhabitants of its dependent territories all possessed French nationality. There would have been no difficulty in the case of the United Kingdom's dependent territories either, if the Egyptian representative had been right in supposing that the inhabitants of those territories all possessed British nationality. However, the United Kingdom representative had explained that while some of the dependent peoples had British nationality, others did not; it was in the latter case that a problem arose. The problem was a real one, but it would not be solved by introducing a territorial clause, for in any case the proposed Convention would not apply to persons who did not possess the nationality of the contracting States. The United Kingdom representative's argument was therefore untenable.

16. The United Kingdom representative had also stressed the need for the previous consent of a non-metropolitan territory; but that again was not a valid argument. A contracting State could not accept binding obligations on behalf of territories in which it had no power to impose them. The adoption of a territorial clause would not solve the problem and its absence should not prevent the metropolitan Powers from signing the Convention for the latter could not in any case be applied to dependent territories of the type in question without their consent.

17. Ecuador had always championed the cause of human rights, and particularly of self-determination; but unfortunately, there was a big gap between the ideals the peoples strove for and the reality they were obliged to accept. In a very laudable effort to prevent the failure of the Convention through the refusal of the metropolitan Powers to sign it without a territorial clause, the Peruvian representative had put forward a proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2) which provided a more flexible formula than either the Belgian or the United Kingdom proposals. However, it raised political questions which were out of place in a legal instrument such as the Convention under consideration, and the Ecuadorian delegation would therefore have preferred to abstain on it. Nevertheless, in view of the fact that certain countries would be unable to sign the Convention if it did not contain some such formula, his delegation had reluctantly decided to vote for it and against the Belgian proposal.

18. Mr. BRENA (Uruguay) said that none of the three proposals so far made was acceptable to his delegation. He recognized the conciliatory intention of the Peruvian delegation in proposing its formula, which was the least objectionable of the three, but he could not support it, because its effect would be the same as that of the other two proposals. He did not wish to impugn the motives of Belgium and the United Kingdom, which had demonstrated their hatred of totalitarianism on the battlefields of Europe, and he did not wish to join issue with them on the point under discussion. If the draft Convention was adopted as it stood, there would be no mention of colonial Powers, but if the proposed territorial clause was inserted, even in the much milder wording of the joint proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), the Committee would, in effect, be condoning the continuation of colonialism. There was no analogy with the Supplementary Convention on Slavery, for the subject of the Convention under con-

sideration was entirely different; furthermore, reservations had been made with regard to the article in question in the Supplementary Convention on Slavery and it had been specifically stated that it would not be considered as a precedent. The Committee would shortly be discussing the draft International Covenants on Human Rights; it must clarify its thinking on all human rights and take a firm stand on the question of colonialism, which could take many different forms, but in the final analysis was always prejudicial to the dependent peoples.

19. At the preceding meeting, the Saudi Arabian representative had raised the question of the maturity of the dependent peoples. It was not for the metropolitan Powers alone to decide whether those peoples were or were not mature. Liberty was like the sun; it shone on all or none. Although the current age was one of anxiety, it might in future times be known as an age of liberation; many peoples were achieving freedom, some by their own efforts and others through the generosity of colonial Powers, some of which had already given tangible proof of their belief in the right of self-determination.

20. U THWIN (Burma) said that the Committee must weigh the question of the colonial clause very carefully, as it would affect many peoples not at present represented in the United Nations. Although the Committee was concerned with social and humanitarian questions, it could not avoid discussing the political implications of the colonial clause; colonialism was a political concept which could never be reconciled with humanitarianism.

21. The three texts which had been proposed were all tarred with the same brush. The principle of universality was being invoked as a cloak for self-interest; delegations spoke of universality but supported restrictions, with the result that article 4 of the basic text contained regrettable limitations. The territorial application clause had similar aims; it would give the colonial Powers the right to extend the application of the Convention to their dependent territories at their discretion, and was designed to sanction the grip of those Powers on countries which they had deprived of their sovereign rights. By approving its inclusion the United Nations would be countenancing the violation of human rights in the dependent territories. If the colonial Powers were sincerely concerned for the welfare of those territories, they should not propose such a clause but should encourage the political development of the dependent territories, so as to enable them to take their place in the United Nations and sign the Convention for themselves. For the reasons he had given, he would vote against all three proposals.

22. Mrs. MARZUKI (Indonesia) said that although the Belgian proposal (A/C.3/L.513) as amended by France (A/C.3/L.521) was worded with suitable legal accuracy, its content was the same as that of the other proposals. It had been argued that a colonial clause would enable the metropolitan Powers to apply the Convention to their dependent territories, either with or without previous consultation with the peoples concerned. That being so, the question arose how and by whom those peoples were to be consulted. She did not feel that the peoples of the dependent territories were in a position freely to express their views on that or any other question. Even if they possessed representative councils, it was doubtful

whether such councils really represented the inhabitants of the territory.

23. She would therefore vote against the Belgian proposal. She would also vote against the three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), which, although prompted by a desire for conciliation, meant no change in the spirit of the Belgian amendment, of which it was only a milder form. The Egyptian representative had asked whether there was any necessity for such a clause at all. The Committee might do well to consider that question carefully.

24. Mr. MUFTI (Syria) said that at the preceding meeting he had suggested some changes in the joint proposal for consideration by its sponsors. He did not wish to present a formal amendment, as he would vote against both that draft and the Belgian proposal. If a colonial clause was included in the Convention, it might later be invoked as a precedent, just as similar clauses in conventions on matters having nothing to do with the subject under consideration had been invoked in the current debate.

25. Mr. PUDLAK (Czechoslovakia) said he was opposed to the three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), because in essence it was a colonial clause. The colonial Powers asserted that in the absence of such a clause they would either be unable to ratify the Convention or be obliged to impose it on their dependent territories. It would be a matter for gratification if nothing worse were ever imposed on those territories. The draft Convention had been under discussion for several years, and, had they wished to do so, the colonial Powers could easily have consulted their territories, to say nothing of granting them independence, during that period. There should be no compromise with the evil of colonialism; any compromise would be to the advantage neither of the women of the dependent territories nor of the Convention itself; its only beneficiaries would be the colonial Powers.

26. Mr. ROY (Haiti) associated himself with those who had opposed any concessions to the spirit of colonialism; such concessions, even when made with the best intentions, only established regrettable precedents which were later invoked at every opportunity. The universality of all United Nations conventions was a basic principle, which must not be sacrificed for the sake of a few more signatures to the Convention. He appealed to the Latin American countries, which he knew to be staunch foes of colonialism, to oppose the proposals before the Committee.

27. Mr. STEWART (New Zealand) said that his delegation supported the aim of the Convention and therefore wanted it to have the widest possible application when completed, so that it might be truly effective. Regrettably, some States had already stated that they did not propose to become parties to the Convention. A number, whose support was to say the least doubtful, appeared determined to make it difficult for others to sign the Convention. Another group of States obviously contemplated accession to the instrument, but were precluded from acceding by technical difficulties, of a legislative nature, to surmount which a number of proposals had been introduced. Those proposals had been bitterly criticized. He failed to see why the mere mention of the

relationship between those States and certain non-metropolitan territories should be taken as a desire to perpetuate colonialism. The special relationship which existed between the metropolitan Powers and the territories they administered was recognized in the Charter, and special United Nations organs had been set up to supervise it. If any State failed to comply with its obligations under the Charter, the existing machinery could be brought into operation to remedy the situation. The Committee should not close its eyes to reality and pretend that no such relationships existed; if it did, it might well degenerate into a mere debating society whose recommendations would carry no weight.

28. He would have been able to support the United Kingdom proposal (A/C.3/L.522). Since it had been withdrawn, he would vote for the three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), which struck a happy balance between the two extreme views represented in the Committee.

29. He regretted that so many of the delegations which had stressed that the proposed Convention was a humanitarian one had seen fit to discuss it in purely political terms.

30. Mr. BAROODY (Saudi Arabia) remarked that much was being made of the technical difficulties which would unfortunately preclude colonial Powers from extending the benefits of the Convention to their dependent territories and achieving the universality that was so dear to them. It was a pity that those same Powers had not defended the principle of universality in connexion with article 4 of the draft Convention, when several delegations, including his own, had sought to remove certain technicalities which would prevent the Convention from being applied to women in non-member States. Those delegations were being accused of making political capital out of a debate which they had not started; for it had been initiated by those who were endangering the principle of universality by advocating the insertion of a colonial clause.

31. As a close observer of the contemporary movement towards self-determination, he assured the Uruguayan representative, who had spoken of the generosity of the colonial Powers, that on every occasion when such a Power had granted independence to a former colony it had done so because it had been weakened by a war and would have found it more difficult to maintain its grip on the colony than to let go; in each case, not generosity but expediency had been the motive force.

32. Political arguments were inevitable in a discussion of such a purely political matter as the colonial clause. The surge of the colonial peoples towards freedom was one of the realities of the contemporary world, and when those peoples had won their fight such discussions would no longer be necessary. In the meantime, he appealed to all delegations to vote against any proposal that would tend to perpetuate the artificial relationships mentioned by the New Zealand representative.

33. Miss FLOURET (Argentina) said she wished to make a reservation on behalf of her Government: neither the Belgian nor the three-Power proposal could be taken to refer to or include the Malvinas Islands (Falkland Islands), the South Georgia Islands,



the South Sandwich Islands and the Argentine Antarctic Sector, which for historical, geographical and legal reasons were an integral part of Argentine territory.

34. She would abstain in the vote on both proposals.

35. Mr. PAZHWAK (Afghanistan) remarked that while he found the position and actions of the United Kingdom delegation entirely clear, he was puzzled by the three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), because its sponsors belonged to a part of the world which had always strongly opposed colonialism. If the proposal was in fact intended as a compromise, he asked whether its sponsors were really prepared to compromise on a basic principle which they had always upheld in the past.

36. For his part, he could not accept such a compromise, and would therefore vote against both proposals before the Committee and against any other attempt to introduce a colonial clause into the draft Convention. In so doing, his delegation was not shrinking from reality, but approaching it with a desire to improve it. If the situation were really such as the New Zealand representative appeared to think, there would be no need for a colonial clause; but unhappily, colonialism would persist until the United Nations attained one of its avowed objectives and did away with it.

37. Mr. TOWNSEND EZCURRA (Peru) said that as he had explained in his earlier statements, Peru firmly adhered to its long tradition of anti-colonialism. The three-Power proposal (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2), which was an effort at conciliation, did not represent a departure from that position. On the contrary, it placed definite obligations on the metropolitan Powers which signed the Convention to extend its application to their territories and to report to the Secretary-General on the progress made. It was an attempt to overcome the difficulties encountered by those Powers, while maintaining the principle of universality. He was convinced that colonialism was an antiquated system which must soon disappear from the face of the earth.

38. Mr. DIAZ CASANUEVA (Chile) associated himself with the Peruvian representative's remarks.

39. Mr. MUFTI (Syria) appealed to the representatives of Chile, Mexico and Peru to withdraw their joint proposal, so as not to oblige delegations to vote against a text presented by Governments with whose views on colonialism they were in entire agreement.

40. Mr. PAZHWAK (Afghanistan) joined in the appeal. He was delighted to hear that the countries in question had not changed their stand on colonialism as a whole.

41. The CHAIRMAN put to the vote the Belgian proposal (A/C.3/L.513) as amended by France (A/C.3/L.521).

*At the request of the representative of Saudi Arabia, a vote was taken by roll call.*

*Saudi Arabia, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* United Kingdom of Great Britain and Northern Ireland, Australia, Belgium, Canada, France, Luxembourg, Netherlands, New Zealand, Portugal.

*Against:* Saudi Arabia, Spain, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Venezuela, Yemen, Yugoslavia, Afghanistan, Albania, Bolivia, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Ceylon, Chile, China, Colombia, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Greece, Guatemala, Haiti, Hungary, Iceland, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Mexico, Morocco, Pakistan, Peru, Poland, Romania.

*Abstaining:* Sweden, Thailand, Turkey, United States of America, Argentina, Austria, Finland, Honduras, Ireland, Israel, Italy, Norway, Panama, Philippines.

*The proposal was rejected by 47 votes to 9, with 14 abstentions.*

42. The CHAIRMAN put to the vote the proposal submitted by Chile, Mexico and Peru (A/C.3/L.523/Rev.1 and A/C.3/L.523/Add.1 and 2).

*At the request of the representative of Saudi Arabia, a vote was taken by roll call.*

*Cambodia, having been drawn by lot by the Chairman, was called upon to vote first.*

*In favour:* Canada, Chile, China, Colombia, Cuba, Denmark, Ecuador, Finland, France, Honduras, Iceland, Ireland, Israel, Italy, Luxembourg, Mexico, Netherlands, New Zealand, Norway, Panama, Peru, Philippines, Portugal, Sweden, Turkey, United Kingdom of Great Britain and Northern Ireland, Australia, Austria.

*Against:* Ceylon, Czechoslovakia, Egypt, Ethiopia, Greece, Haiti, Hungary, India, Indonesia, Iran, Iraq, Jordan, Lebanon, Libya, Morocco, Poland, Romania, Saudi Arabia, Sudan, Syria, Tunisia, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Uruguay, Yemen, Yugoslavia, Afghanistan, Albania, Bolivia, Bulgaria, Burma, Byelorussian Soviet Socialist Republic.

*Abstaining:* Dominican Republic, Guatemala, Pakistan, Spain, Thailand, United States of America, Venezuela, Argentina, Belgium, Brazil.

*The proposal was rejected by 32 votes to 28, with 10 abstentions.*

The meeting rose at 1.20 p.m.