

United Nations
**GENERAL
ASSEMBLY**

TWELFTH SESSION
Official Records



**THIRD COMMITTEE 820th
MEETING**

Monday, 25 November 1957,
at 3.15 p.m.

NEW YORK

CONTENTS

Page

Agenda item 33:	
Draft International Covenants on Human Rights (continued)	
Article 6 of the draft Covenant on Civil and Political Rights (continued)	289

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, A/C.3/L.644, A/C.3/L.648, A/C.3/L.651, A/C.3/L.654, A/C.3/L.655 and Corr.1, A/C.3/L.656-658) (continued)

**ARTICLE 6 OF THE DRAFT COVENANT ON CIVIL AND
POLITICAL RIGHTS (E/2573, ANNEX I B, A/C.3/L.655
AND CORR.1) (continued)**

1. Mr. DE SILVA (Ceylon) said that his delegation would withdraw its amendment (A/C.3/L.658) to the new paragraph 3 set forth in the Working Party's report on article 6 (A/C.3/L.655 and Corr.1). Its reason for submitting the amendment had been to avoid a choice between two evils, that of voting in favour of the four-Power proposal (A/C.3/L.649/Rev.1) in the interests of unanimity, and that of voting against the inclusion of a paragraph on obligations under the Genocide Convention. The comments made by representatives on the amendment had, however, convinced his delegation that its attempts to reconcile the principles of unanimity and consistency had failed. Ceylon was guided in its votes by the moral and ethical principles of the United Nations, but it had never regarded the Organization as a supra-national body in which national interests could be promoted. Its position was governed by the desire to include in the Covenants provisions with a maximum of sense and efficacy, on which there was a minimum of disagreement. Nevertheless, it could not compromise on matters of principle and would abstain from voting on the new four-Power amendment (A/C.3/L.657). He hoped that his delegation's action would at least make the Committee aware of the dangers of proposals which weakened the text.

2. Mr. AZNAR (Spain) said he wished to raise two points in connexion with the amendments to article 6. In the first place, his delegation could not accept the argument that the word "intentionally" in the Netherlands amendment (A/C.3/L.651) was synonymous

with the word "arbitrarily" or was an improvement over that term. The word "intentionally" could have only one meaning, that of specific intent to kill, which applied to killing in self-defence and to legal executions, as well as to the specific cases listed in the amendment.

3. Secondly, with reference to the objection raised by the United Kingdom representative (815th meeting) to the use of the word "minors" in paragraph 4 of the text, which was one of the alternatives presented in the Working Party's report (A/C.3/L.655 and Corr.1), he explained that in Spanish the phrase "menores de edad" was a legal term denoting persons under age, and was perfectly clear in all countries where the Napoleonic Code was used. Any country could fix the precise age of such persons in accordance with its own criteria, but the phrase had an unequivocal legal meaning. None of the other alternatives was acceptable to the countries using that Code.

4. Sir Samuel HOARE (United Kingdom) hoped that the term "minors" would not be imposed in the English text, as that word specifically meant persons under twenty-one years of age. The Committee should reach some agreement on the subject before proceeding to the vote.

5. Mr. AZNAR (Spain) assured the United Kingdom representative that he had had not intention of imposing any translation on any other delegation. He hoped that a suitable English equivalent of "menores de edad" would be found for the final text.

6. Miss FUJITA (Japan), referring to the Israel representative's remarks at the preceding meeting, agreed with her that the main reason for inserting the provision concerning pregnant women was to avoid involving in the death penalty a person who was not connected with the crime, and that that consideration applied equally to insane persons. If a proposal had been made to include references to insane persons or aged people, the Japanese delegation would not have objected. Nevertheless, the fact that no such proposal had been made should not prejudice the provisions relating to young persons and pregnant women.

7. The CHAIRMAN put the amendment proposed by Colombia and Uruguay (A/C.3/L.644) to the vote.

At the request of the representative of Uruguay, a vote was taken by roll-call.

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

In favour: Colombia, Dominican Republic, Ecuador, Finland, Italy, Panama, Uruguay, Venezuela, Brazil.

Against: Cambodia, Canada, Ceylon, Chile, China, Czechoslovakia, Denmark, Egypt, France, Ghana, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Japan, Jordan, Liberia, Luxembourg, Malaya

(Federation of), Mexico, Morocco, Nepal, Netherlands, New Zealand, Nicaragua, Norway, Pakistan, Philippines, Poland, Romania, Saudi Arabia, Sudan, Syria, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yemen, Yugoslavia, Afghanistan, Albania, Australia, Belgium, Bulgaria, Burma, Byelorussian Soviet Socialist Republic.

Abstaining: Cuba, Ethiopia, Greece, Guatemala, Peru, Portugal, Spain, Sweden, Thailand, United States of America, Argentina, Austria.

The amendment was rejected by 51 votes to 9, with 12 abstentions.

The Costa Rican amendment (A/C.3/L.648) was rejected by 58 votes to 4, with 10 abstentions.

The Netherlands amendment (A/C.3/L.651) was rejected by 50 votes to 9, with 11 abstentions.

8. The CHAIRMAN, following the order of voting suggested by the Working Party (A/C.3/L.655 and Corr.1), put to the vote the first clause proposed for paragraph 1 of article 6: "Every human being has the inherent right to life".

The clause was adopted by 65 votes to 3, with 4 abstentions.

9. The CHAIRMAN put to the vote the second sentence of the five-Power amendment (A/C.3/L.654) as proposed in the Working Party's report (A/C.3/L.655 and Corr.1).

The amendment was rejected by 31 votes to 20, with 17 abstentions.

10. The CHAIRMAN put to the vote the second clause proposed for paragraph 1 (A/C.3/L.655 and Corr.1), which would be consequentially amended to read: "This right shall be protected by law".

The clause was adopted by 69 votes to none, with 1 abstention.

11. The CHAIRMAN put to the vote the third clause proposed for paragraph 1 (A/C.3/L.655 and Corr.1): "No one shall be arbitrarily deprived of his life".

At the request of the representative of Syria, a vote was taken by roll-call.

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

In favour: Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Chile, Cuba, Czechoslovakia, Denmark, Dominican Republic, Ecuador, Egypt, Ethiopia, Ghana, Greece, Haiti, Hungary, Indonesia, Iraq, Ireland, Jordan, Liberia, Malaya (Federation of), Mexico, Nicaragua, Norway, Panama, Peru, Philippines, Poland, Romania, Saudi Arabia, Spain, Sudan, Syria, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, Yemen, Yugoslavia, Afghanistan, Albania, Austria, Belgium, Brazil.

Against: Canada, Colombia, France, Israel, Morocco, Netherlands, New Zealand, Sweden, United Kingdom of Great Britain and Northern Ireland, Uruguay, Argentina, Australia.

Abstaining: Ceylon, China, Finland, Guatemala, India, Iran, Italy, Japan, Luxembourg, Nepal, Pakistan, Portugal, United States of America, Venezuela.

The clause was adopted by 46 votes to 12, with 14 abstentions.

12. The CHAIRMAN observed that a separate vote had been requested by the representative of Poland (817th meeting) on the phrase "in force at the time of the commission of the crime and" in the text for paragraph 2 of article 6 proposed in the Working Party's report (A/C.3/L.655 and Corr.1).

The phrase was adopted by 29 votes to 25, with 16 abstentions.

13. The CHAIRMAN put the text of paragraph 2 (A/C.3/L.655 and Corr.1) as a whole to the vote.

At the request of the representative of Colombia, a vote was taken by roll-call.

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

In favour: Italy, Japan, Liberia, Malaya (Federation of), Morocco, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Spain, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, Yugoslavia, Albania, Argentina, Australia, Austria, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Canada, Ceylon, Chile, China, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Haiti, Hungary, India, Iran.

Against: Iraq, Ireland, New Zealand, Uruguay, Venezuela, Colombia, Denmark.

Abstaining: Israel, Jordan, Luxembourg, Mexico, Nepal, Netherlands, Nicaragua, Portugal, Saudi Arabia, Sudan, Sweden, Syria, United States of America, Yemen, Afghanistan, Belgium, Cambodia, Egypt, Indonesia.

Paragraph 2 was adopted by 46 votes to 7, with 19 abstentions.

14. The CHAIRMAN invited the Committee to vote on the text of paragraph 3 proposed in the four-Power amendment (A/C.3/L.657).

15. At the request of Mr. CURRIE (Canada), the CHAIRMAN put to the vote the words "When deprivation of life constitutes the crime of genocide, it is understood that", at the beginning of the proposed text.

Those words were adopted by 37 votes to 14, with 19 abstentions.

Paragraph 3 (A/C.3/L.657) as a whole was adopted by 49 votes to 5, with 18 abstentions.

16. The CHAIRMAN called upon the Committee to vote on paragraph 3 of the original text of the draft Covenant (E/2573, annex I B), which would become paragraph 4 of the new article 6.

17. At the request of Mr. DELHAYE (Belgium), the CHAIRMAN put to the vote the words "in all cases", at the end of that paragraph.

Those words were adopted by 57 votes to 1, with 13 abstentions.

The paragraph as a whole was adopted by 69 votes to none, with 2 abstentions.

18. The CHAIRMAN drew attention to the Japanese proposal for a new paragraph 4 (A/C.3/L.655 and Corr.1), which would now become paragraph 5 of the article, and called for a vote on the United Kingdom amendment (A/C.3/L.656, point 2) replacing the words "for crimes committed by" by the word "on".

The amendment was rejected by 41 votes to 12, with 19 abstentions.

19. The CHAIRMAN pointed out that the Working Party had presented several alternatives to the words "children and young persons" used in the Japanese proposal. He suggested that the Committee should vote first on the phrase "persons below eighteen years of age".

20. Mr. AZNAR (Spain) warned the Committee against making difficulties for signatory States by a hasty vote. The choice of eighteen years seemed an arbitrary one, whereas the word "minors" (menores de edad) would at least be understood by each Government, which would then apply its own standard of majority.

21. Mr. DELHAYE (Belgium) said he was ready to vote for the limit of eighteen years, since the other terms suggested were open to different interpretations and would impose unequal obligations on States. There seemed, however, to be some confusion with regard to the meaning of those terms and their proper translation, so that further consideration might be useful.

The words "persons below eighteen years of age" were adopted by 21 votes to 19, with 28 abstentions.

22. Mr. HU CHUN (China) asked for a separate vote on the words "shall not be imposed for crimes committed by persons below eighteen years of age, and". That would give him an opportunity to vote against those words, since in his country a death sentence could, in exceptional circumstances, be imposed upon a person below eighteen years of age.

23. Mr. ROY (Haiti) remarked that a separate vote could not be taken on those words since they constituted an amendment to the original text submitted by the Commission on Human Rights (E/2573, annex B).

24. Mr. KOUN WICK (Cambodia) added that a separate vote would be out of order since the words on which it was to be taken included a phrase already adopted by the Committee.

25. After a brief discussion, Mr. ROSSIDES (Greece) moved, under rule 130 of the rules of procedure of the General Assembly, that the Chinese representative's motion for division should be voted upon.

The motion for division was rejected by 29 votes to 21, with 16 abstentions.

The paragraph as a whole, as amended, was adopted by 53 votes to 5, with 14 abstentions.

26. The CHAIRMAN called for a vote on the new last paragraph proposed by the Working Party (A/C.3/L.655 and Corr.1), as amended at the 819th meeting.

The paragraph was adopted by 54 votes to 4, with 14 abstentions.

27. The CHAIRMAN invited the Committee to vote on article 6 as a whole, as amended.

At the request of the representative of Colombia, a vote was taken by roll-call.

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

In favour: Yemen, Yugoslavia, Afghanistan, Albania, Argentina, Austria, Brazil, Bulgaria, Burma, Byelorussian Soviet Socialist Republic, Cambodia, Ceylon, Chile, Cuba, Czechoslovakia, Dominican Republic, Ecuador, Egypt, Ethiopia, Finland, France, Ghana, Greece, Guatemala, Haiti, Hungary, India, Indonesia, Iran, Iraq, Ireland, Israel, Japan, Jordan, Liberia, Mexico, Morocco, Nepal, Nicaragua, Norway, Pakistan, Panama, Peru, Philippines, Poland, Romania, Saudi Arabia, Spain, Sudan, Syria, Thailand, Tunisia, Turkey, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics.

Abstaining: Australia, Belgium, Canada, China, Colombia, Denmark, Italy, Luxembourg, Malaya (Federation of), Netherlands, New Zealand, Portugal, Sweden, United Kingdom of Great Britain and Northern Ireland, United States of America, Uruguay, Venezuela.

Article 6 as a whole, as amended, was adopted by 55 votes to none, with 17 abstentions.

28. Mr. ZEA HERNANDEZ (Colombia) said that the Committee could be proud of the level of the debate on article 6. The consensus of opinion was that capital punishment was an evil which, though still necessary in some countries, should eventually be abolished. He had been proud to co-sponsor the Colombian-Uruguayan amendment (A/C.3/L.644) and regretted that it had not been adopted. The adoption of the new final paragraph (A/C.3/L.655 and Corr.1), in which the abolition of capital punishment was specifically mentioned, was, however, a step forward. Nevertheless, he would have preferred the more positive text proposed by the representative of Panama (A/C.3/L.653) and regretted that it had been withdrawn.

29. He had voted against the Netherlands amendment (A/C.3/L.651) for the reasons already given during the debate. While he understood the motives which had prompted that amendment and the advantages such a text might have for a country like the Netherlands, he could not accept the listing in paragraph 2. If it had been adopted, his delegation would have found it difficult to vote for the article. He had voted for the five-Power text (A/C.3/L.654) for the second sentence of paragraph 1, because he was convinced of the justice of the principle involved. He had voted against paragraph 2 (A/C.3/L.655 and Corr.1), because he was opposed to capital punishment in any circumstances, but he had voted for paragraphs 3 and 4 of the new text. He had voted against the third clause of paragraph 1 (A/C.3/L.655 and Corr.1) and against the new paragraph 5 (A/C.3/L.655) and Corr.1), not because he was opposed to them in principle but because they did not go far enough; life should never be taken in any circumstances.

30. Mr. THIERRY (France) said that he had voted for the article as a whole. The new text conserved the spirit of the original (E/2573, annex I B) and was neither a weak compromise nor a drastic innovation. He was happy that the substance of the French amendments had been included in the Working Party's text, which should prove acceptable to most States.

31. He had voted against the amendment proposed

by Colombia and Uruguay (A/C.3/L.644), because it was a radical departure from the original which might jeopardize the success of the Covenant. He had abstained on the Netherlands amendment (A/C.3/L.651), because paragraph 2 might give rise to difficulties and disputes. He had also voted against the third clause of paragraph 1 (A/C.3/L.655 and Corr.1) because the meaning of the word "arbitrarily" could not be satisfactorily defined. He had had no difficulty in voting for the new paragraph 3 (A/C.3/L.657), as France had ratified the Convention on Genocide. He had abstained on the words "persons below eighteen years of age", because he would have preferred the words "young persons not yet of age for the purposes of penal law", but as that age was eighteen in France, he had been able to vote for the new paragraph 5 and the article as a whole. He had also voted for the new last paragraph (A/C.3/L.655 and Corr.1).

32. Mr. AZNAR (Spain) said that he had voted for article 6 as a whole because it was a generally acceptable enunciation of lofty concepts. It contained, however, certain provisions which were to be deplored as they constituted interference in the internal affairs of States. The new paragraph 5, for instance, established eighteen as the age of majority for offenders.

Although that age did not conflict with the one established by the Spanish penal code and his delegation could therefore accept it, he deplored the attempt to impose that age limit on other countries, which might not find it acceptable. He had therefore voted against the words "persons below eighteen years of age". His delegation was convinced that it was a very grave mistake to infringe the sovereign rights of States in that way, and would raise the question in the General Assembly. Although he was not opposed to it in principle, he had voted against the amendment proposed by Colombia and Uruguay (A/C.3/L.644) because it would have prevented many States from signing the Covenant.

33. Mr. TEJERA (Uruguay) said that he had voted for all the paragraphs of the new article 6 in which there was no reference to the death penalty; he had voted against all those which referred to it, even though their purpose was to restrict the number of cases in which it could be inflicted, because he was fundamentally opposed to capital punishment in any circumstances. He welcomed the understanding comments on the Colombian-Uruguayan amendment (A/C.3/L.644), which were encouraging for the future.

The meeting rose at 5.55 p.m.