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NEW YORK

Chairman: Mr. Erik SUY (Belgium).

AGENDA ITEM 49

Human rights in armed conflicts:
(a) Respect for human rights in armed conflicts: report of the Secretary-General under General Assembly resolutions 2852 (XXVI), paragraph 8, and 2853 (XXVI) *(continued)*, (A/8781 and Corr.1, A/C.6/L.884, A/C.6/L.885/Rev.1)

1. The CHAIRMAN announced that Uruguay should be added to the list of sponsors of draft resolution A/C.6/L.884 and that Costa Rica, Cyprus, Nicaragua, Sudan, Tunisia and Zaire should be added to the list of sponsors of draft resolution A/C.6/L.885/Rev.1.

2. Mr. BLIX (Sweden), introducing draft resolution A/C.6/L.885/Rev.1, said that since the agenda item concerning human rights in armed conflicts was being considered by the Sixth Committee for the first time, it was appropriate to recall briefly its origin.

3. By resolution XXIII adopted by the International Conference on Human Rights held at Teheran in 1968[1] the General Assembly had been requested to invite the Secretary-General to study steps which could be taken to secure the better application of existing humanitarian international conventions and rules in all armed conflicts and the need for additional humanitarian international conventions or for possible revision of those already existing to ensure the better protection of civilians, prisoners and combatants in all armed conflicts and the prohibition and limitation of the use of certain methods and means of warfare. In addition, the twenty-first International Conference of the Red Cross, held at Istanbul in 1969, had urged the International Committee of the Red Cross (ICRC) to draw up concrete rules to supplement the humanitarian law in force, and to hold consultations with government experts on those proposals.[2] Proposals had been drawn up by ICRC and studied at the Conference of Government Experts on the Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts during its sessions held in 1971 and in 1972. In the United Nations sphere, the Secretary-General had prepared a number of reports on the item, the most recent submitted on 20 September 1972 and contained in document A/8781 and Corr.1. The warm compliments to the Secretary-General for the excellent documents he had prepared were reflected in the fifth preambular paragraph of the draft resolution.

4. The Secretary-General had also submitted in accordance with General Assembly resolution 2852 (XXVI) a report on napalm and other incendiary weapons, contained in document A/8803 and Corr.1, and the General Assembly had already adopted a resolution on that subject at the current session resolution 2932A (XXVII). Consequently, the Sixth Committee should base its discussion on the Secretary-General's report on human rights in armed conflicts (A/8781 and Corr.1). At the same time, paragraph 4 of the draft resolution requested the Secretary-General to prepare a survey of existing rules of international law concerning the prohibition or restriction of the use of specific weapons. Such a survey would be highly useful to Governments for the further consideration of the item. Although the Committee had been engaged in discussion of possible regulations to stem international terrorism and acts of international violence, it should also show its interest in the updating of rules governing full-scale armed conflicts. In addition, members of the Committee should grasp the opportunity provided by the transfer of the item from the Third Committee to contribute to the development of the laws governing armed conflicts. The fact that the item, while new to the Sixth Committee, was not new to the General Assembly was reflected in the fourth preambular paragraph of the draft resolution.

5. The seventh preambular paragraph of the draft resolution expressed appreciation to ICRC for its dedicated efforts to promote the reaffirmation and development of international humanitarian law applicable in armed conflicts. The General Assembly was a considerably more representative body than the Red Cross conferences and a collective expression of the views of the General Assembly, by means of a resolution, would be of great interest. However, the Sixth Committee should not seek to revise the ICRC proposals, but should indicate what a majority of Members of the United Nations thought of projects to supplement the law relating to armed conflicts—which would be of considerable interest in the process of finalizing those projects. The impression was gained that in some quarters discussion of the topic in the United Nations was largely a disturbing element and that it would be preferable for such discussions to be held behind the closed doors of the ICRC conferences. His delegation did not share that view. It believed that discussion in the United Nations was an important complement to the ICRC conferences. The law of armed conflicts very directly and brutally concerned the public at large, and preparations for changes in it should not be made exclusively behind closed doors. Debate in the Sixth Committee could help to make available to the public information on what was being done, although of course the simultaneous use of quiet diplomacy could be beneficial.

6. His delegation was convinced that most Governments wished to see substantial progress on a very broad range of

[1] See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No.: E.68.XIV.2.), chap. III.

[2] See A/7720, annex I, sect. D, resolution XIII.

legal issues relating to armed conflicts. That view was borne out by General Assembly resolution 2852 (XXVI), and was reiterated in the twelfth preambular paragraph of the draft resolution. At present, there were two draft protocols drawn up by ICRC, one relating to international conflicts and the other to non-international conflicts (*ibid.*, part two, sects. II and III). Experts from a great many countries had expressed their often conflicting views on those drafts, but the two sessions of the Conference of Government Experts had been devoted less to negotiation and rapprochement between government experts than to comments intended to help ICRC to reassess and revise its proposals. Nevertheless, near-consensus had been attained in connexion with the protection of wounded, sick and shipwrecked persons, an achievement which was welcomed in the ninth preambular paragraph of the draft resolution. However, agreement was still lacking on the definition of those non-international conflicts which might be regulated, the definition of those combatants who might be entitled to prisoner-of-war status, methods necessary to secure a better application of existing rules relating to armed conflicts, the definition of military objectives and protected objects which should not be the object of military attack, and rules relating to area-bombing, guerrilla warfare and relief operations. In addition, no agreement had so far been achieved on a general prohibition of the use of weapons whose effect was indiscriminate and specific weapons deemed to cause unnecessary suffering.

7. Serious discussion had begun, and some clarification had been achieved, on all those vital issues; on some points, a convergence of views could be discerned. The sponsors of the draft resolution welcomed that in the tenth preambular paragraph. Of course, the community of States could not reach agreement on a broad updating of the law of armed conflicts without intense preparation and debate. While the General Assembly should note with satisfaction the progress achieved, it should also honestly face the distance still to be covered and give some sense of direction to the necessary efforts. No one should adopt the attitude that the desired results had almost been achieved, and that it only remained for them to be formalized at a diplomatic conference.

8. As noted in the thirteenth preambular paragraph, the Swiss Federal Government had expressed its readiness to convoke a diplomatic conference early in 1974 for the purpose of seeking agreement on the basis of the texts prepared by ICRC. That was a welcome initiative and it was to be hoped that such a conference would constitute a milestone similar to the conferences held at The Hague in 1899 and 1907 and at Geneva in 1925 and 1949. However, all parties concerned should devote the time before the conference as well as the conference itself to efforts to reach substantive progress in areas where it was still lacking. The risk of disappointment and disillusion which might otherwise set in was reflected in the fourteenth preambular paragraph of the draft resolution. For the same reason, the sponsors had stated bluntly the current position and what needed to be done. Progress could be achieved in the coming year through consultations between Governments and groups of Governments, in co-operation with the ICRC or separately, as stated in operative paragraph 1. The sponsors had full confidence that the Swiss Government would seek to organize the conference in such a way—perhaps through more than one session and through more than one plenary committee—that broad agreement would result. This confidence was expressed in the fourteenth preambular paragraph.

9. The eleventh preambular paragraph of the draft resolution gave a list of issues on which additional efforts would be urgently needed, although it made no claim to be exhaustive or to establish priorities. A vitally important issue on which agreement was lacking was the definition of military objectives and protected objects. The wording of subparagraph (*b*) was not in any way meant to prejudge what methods of definition should be used. Nevertheless, there was a tendency to regard ever-growing categories of objects as permissible targets for attack, especially in aerial warfare, and it was tragic that efforts which had been made in the early 1920s to draw up rules expressly designed to cover air warfare had never been accepted by Governments. Legal guidance in air warfare still remained limited to provisions in the Declaration of St. Petersburg, 1868[3] and The Hague rules of 1907.[4] Those basic precepts had done little to promote restraint in the process towards total air war. Events in Spain and in China in the 1930s had led the Assembly of the League of Nations unanimously to adopt on 30 September 1938 a resolution[5] laying down that the intentional bombing of civilian populations was illegal; that objectives aimed at from the air must be legitimate military objectives and must be identifiable; and that any attack on legitimate military objectives must be carried out in such a way that civilian populations in the neighbourhood were not bombed through negligence. However, even that modest resolution had been criticized and during the Second World War bombardment practices had gone far beyond those principles. Both sides in that war had directed heavy bombardment against big cities with enormous losses in civilian lives. The practice had continued in the Korean War and there were no signs that the practice of area bombing was disappearing.

10. There was discussion, however, as to the legality and military effectiveness of those practices, and there was much support for the proposition that detailed rules were needed to cover air warfare. All Governments should consider whether the permissibility of area bombing, especially of big cities, was in their real long-term interest. The view had been expressed that unless air power was regulated and controlled, it would destroy civilization itself, and that the need for a new and precise law governing air warfare was evident. His delegation believed that two draft provisions offered by ICRC in draft Protocol I formed a good basis for discussion, namely article 45, paragraph 3, and article 50, paragraph 2. Although time had been short at the second session of the Conference of Government

[3]See The American Society of International Law, *Supplement to the American Journal of International Law* (New York, 1907), vol. I, p.95.

[4]Carnegie Endowment for International Peace, *The Hague Conventions and Declarations of 1899 and 1907* (New York, Oxford University Press, 1915).

[5]League of Nations, *Official Journal*, Special Supplement No. 182, October 1938, chap. VI.

Experts organized by ICRC in 1972 for a lengthy debate on the draft rules, a very large number of amendments had been submitted, and it was quite clear that the draft rules were not readily acceptable to all, even as a starting-point. An expert for a very important military Power had defended aerial bombing, as had other legal experts, but there were at least as many who had questioned the legality of such practices under existing law. The Committee was bound to note with concern, as was done in the eleventh preambular paragraph of the draft resolution, that there continued to exist strong divergencies of view on that central, vital issue. It also seemed proper to urge further discussion, as paragraph 1 of the draft resolution did, in the hope that agreement might emerge.

11. In the matter of crop destruction and the destruction of other objects indispensable for the sustenance of the civilian population, the greater licence gradually being assumed by belligerents was also particularly awesome. A work by R. Frank Futtrell entitled *The United States Air Force in Korea 1950-1953*[6] offered interesting reading in that regard. In 1953, United States Air Force officers had held that it was just as legitimate to destroy a growing crop as to seek to destroy rice once it was harvested. However, the officers had been troubled by the implications of the destruction of irrigation dams. An intelligence study had developed convincing arguments to prove that air attacks against the agricultural reservoir system were suitable, feasible and acceptable, and test attacks had been launched against a dam in the spring of 1953, destroying 700 buildings and ruining 5 square miles of prime rice crops. In that account, it was of particular interest to observe the reluctance which existed in the military to the bombing of dams and irrigation systems, and also to observe how those restraints had broken down. If clear rules had existed protecting objects such as dams, irrigation systems and crops, it was very likely that such massive destruction would not have been inflicted. In connexion with the Viet-Nam conflict, too, there had been very strong and widespread reaction against crop-destruction programmes and attacks which damaged dikes and involved great risks of disastrous floods. That human aversion to the destruction of vast water-control and land-irrigation systems ought to be translated into legal form. A former chairman of the Sixth Committee, Krishna Rao, had drafted a proposal for a convention banning the destruction of dams and irrigation works in times of armed conflict. At the time when he had prepared the proposal there had been no convenient forum for it, but the idea had been taken up at the 1971 and 1972 sessions of the Conference of Government Experts. In addition, in the *Houston Law Review* of 1970,[7] it had been argued that purposeful destruction of crops and intentional interference with a nation's food supply must be held to be presumptively impermissible. However, at the 1972 session of the Conference there had not been agreement even on the rather weak draft provisions submitted by ICRC. Against that background of apparently divergent views, it was appropriate that the Assembly should note the lack of agreement and emphasize the need for further consultations.

[6]Published by Duell, Sloane and Pearce, New York, 1961.

[7]Published by the Houston Law Review, Inc., Texas.

12. Turning to the lack of agreement regarding the prohibition of certain weapons, he pointed out that article 30, paragraph 2, of the ICRC draft (see A/8781, para.146) provided that it was forbidden to use weapons, projectiles or substances calculated to cause unnecessary suffering, or particularly cruel methods and means. Experts at the 1972 session of the Conference had wanted to supplement that proposal by a general provision prohibiting the use of weapons and methods of warfare likely to affect combatants and civilians indiscriminately and, secondly, by a list of specific conventional weapons deemed prohibited under those rules. Regrettably, those and other similar proposals remained controversial. Even the ICRC draft had been unacceptable to the experts of Australia, Belgium, Canada, the Federal Republic of Germany, the United Kingdom and the United States.

13. It was evident that the existing, very general, legal rules regarding protected objects and the prohibition of weapons likely to cause unnecessary suffering were totally inadequate and needed to be made explicit and specific if they were to have a more significant restraining effect. That was precisely what had been done in the military manuals of various States. The *United States Manual of Land Warfare* stated that the question of determining which weapons caused "unnecessary injury" could be resolved only in the light of the practice of States in refraining from the use of a given weapon because it was believed to have that effect. It stated further that that prohibition certainly did not extend to the use of explosives contained in artillery projectiles, rockets or hand grenades and that usage had, however, established the illegality of the use of lances with barbed heads, irregularly shaped bullets and projectiles filled with glass, the use of any substance on bullets that would tend unnecessarily to inflame a wound inflicted by them and the scoring of the surface or the filing off of the ends of the hard case of bullets. *The United Kingdom Manual of Military Law* contained a passage which was in part identical. *The Military Manual of the Federal Republic of Germany* stipulated that means of war which were not explicitly prohibited might be contrary to general principles of international law because of their nature or of the way in which they were employed and that the use of flying bombs was impermissible where, because of their imprecision, their whole impact was upon the civilian population.

14. Thus, when experts at Conferences convened by ICRC had tried to specify concretely what weapons were likely to cause unnecessary suffering and what weapons were indiscriminate, they had merely wanted to do something which was commonplace in military manuals. The task was not so much one of disarmament as one of interpretation.

15. To aim at prohibiting the use of such weapons was a somewhat less ambitious approach than to seek to eliminate production, stockpiling and sale—which was the aim of disarmament. He pointed out that subparagraphs (*e*) and (*f*) of the eleventh preambular paragraph of draft resolution A/C.6/L.885/Rev.1 referred to the "use" as opposed to the production or stockpiling of weapons. Production and stockpiling were properly matters of disarmament and the

sponsors of the draft resolution had accordingly not touched upon them.

16. The Swedish delegation did not consider that any of the important issues which were unresolved should be settled by lawyers alone. Past experience showed the need to consider the factor of military necessity and only military men could give advice in that area. But it could not be left to military men alone to decide what restraints should be observed in armed conflicts. If the diplomatic conference envisaged was to be a milestone, the combined wisdom and goodwill of lawyers, military men, humanitarian organizations and statesmen was necessary.

17. The fact that agreement had not been reached concerning a number of fundamental issues, such as the definition of protected objects and the prohibition of certain methods of warfare and weapons was a source of serious anxiety. He recalled that the Teheran Conference had addressed itself to matters such as the provision of better protection for prisoners of war and the prohibition of certain weapons. Such issues had thus been of concern to the United Nations for some time and they remained still a serious problem. The sponsors hoped that the diplomatic conference to be convened in Switzerland would lead to broad and significant progress in the reaffirmation and development of international humanitarian law.

AGENDA ITEM 92

Measures to prevent international terrorism which endangers or takes innocent human lives or jeopardizes fundamental freedoms, and study of the underlying causes of those forms of terrorism and acts of violence which lie in misery, frustration, grievance and despair and which cause some people to sacrifice human lives, including their own, in an attempt to effect radical changes *(continued) (A/8791 and Add.1 and Add.1/Corr.1, A/C.6/418 and Corr.1 and Add.1, A/C.6/L.850, A]C.6/L.851, A/C.6/L.866 and Corr.1, A/C.6/L.867 and Corr.2, A/C.6/L.869, A/C.6/L.872, A/C.6/L.876, A/C.6/L.879, A/C.6/L.880, A/C.6/L.888-890)**

18. Mr. BENNETT (United States of America) observed that the item on terrorism had given rise to a lengthy and wide-ranging debate. The Sixth Committee had wandered far afield in discussing events, policies, weapons and other matters, many of which had been dealt with and disposed of by other Main Committees of the Assembly. It had, for example, touched on the Middle East situation which was being debated in the General Assembly. Rather extraordinary statements had been made concerning the United States. That was nothing new; each speaker was master of his own rhetoric and, sometimes unwittingly, revealed much of himself and his Government's approach to the item under consideration and other questions. The United States delegation had not come to indulge in a polemical *competition and did not intend to engage in invective*, which it deplored. It had rather come to participate in serious consideration of an urgent and world-wide problem, namely, the spread of violence by individuals and groups to areas far removed from the scene of the conflict in which it had its origin, which resulted in the maiming and killing of persons who were not connected with such conflicts in any way whatsoever. International terrorism was not an issue confined to any one area or to any one conflict. In that connexion, he drew attention to a map published recently in *The Observer* showing the location of aerial hijackings. It revealed that of 63 attempts up to 15 November 1972, 32 had been successful. In the whole of 1971, 26 of 61 such attempts had been successful. In the whole of 1971, 26 of 61 such attempts had been successful. It showed that such attempts had taken place throughout the world, with the exception of East Africa; in the incident there the previous morning, however, 7 persons had been killed and 7 wounded and the aircraft involved had limped home with a hole in its fuselage. That surely showed the dimensions of the problem. The cancer was still spreading. The letter-bomb campaign launched in September had claimed innocent victims of many nationalities.

19. Nevertheless, there were those who still argued that the causes of the disease must be found before treatment was begun. He recalled that the United States Secretary of State, addressing the General Assembly (2038th plenary meeting), had said that the issue was not an issue of war, whether between States, civil war or revolutionary war and was not the striving of people to achieve self-determination and independence. Rather, it was whether millions of air travellers could continue to fly in safety each year, whether a person could open his mail without fear of being blown up, whether diplomats could carry out their duties safely and whether international meetings could proceed without the ever-present threat of violence. It was not an issue which should divide the international community. It was a human problem. States had common interest in preserving the communications facilities which bound the world together.

20. He emphasized that, in its draft resolution (A/C.6/L.851) as in the actions which it favoured, the United States would not be a party to any act which adversely affected the right of self-determination. In that draft resolution, it had proposed specific but restricted steps inspired by grave concern at the increasing frequency of serious acts of international terrorism. The text deplored the unnecessary loss of innocent human lives. In paragraph 1, it called upon all States as a matter of urgency to become parties to and implement various international conventions. In paragraph 6, it called upon all States to become parties to a convention on the prevention and punishment of crimes against diplomatic agents, and paragraph 7 entailed the convening of a plenipotentiary conference to consider a convention on the prevention and punishment of international terrorism. In short, it was a simple resolution devoted to specific proposals.

21. The draft convention which the United States delegation had proposed (A/C.6/L.850) was to deal only with serious acts such as those described in its article 1. Although some delegations had indicated a preference for the United States text, others had said that the United States

*Resumed from the 1374th meeting.

position was extreme. It had apparently struck many delegations that the date proposed for the plenipotentiary conference would be too early to allow the careful preparation which such a gathering required. He accepted that judgement and acknowledged that the United States position was considered extreme. If such was the case, the draft resolution of Algeria and other countries (A/C.6/L.880) represented the opposite extreme. Whereas some had expressed the opinion that the United States draft resolution paid insufficient attention to the causes of international terrorism, the Algerian draft resolution dealt almost exclusively with those causes. He had searched in vain for any hint of action to prevent acts of international terrorism. The Algerian text provided for the establishment of an *ad hoc* committee but set no time-limit for it to report. Such a body could spend as much as one year discussing its terms of reference, because none were stated. The United States delegation regarded the Algerian draft resolution as far more extreme than its own. Its adoption would be a prescription for talk—which would indicate to the world at large that the Committee had talked throughout the autumn, proposed to talk in 1973 and would talk again the following autumn. The United Nations should do better than that. While the Committee might deceive itself, it could not deceive public opinion because international terrorism was such a public issue. It had world-wide implications, involving as it did the indiscriminate export of violence throughout the world which claimed men, women and children as its victims.

22. There had been many intensive efforts to bridge the gap in the Committee. The division between those who felt that the disease should be treated simultaneously with the study of its causes and those who felt that attention should be confined to the causes was so great that it was, regrettably, not possible to reconcile them. Despite sincere efforts on both sides, his delegation had been unable to persuade the Algerian delegation to accept a single word which had to do with measures. Words like "international legal measures" were simply not acceptable to the Algerian delegation—even though they were weak words. At the same time, he appreciated the honesty of the Algerian delegation. There had been an attempt to find a middle-ground which had resulted in draft resolution A/C.6/L.879. That text was the outcome of much effort; its sponsors had been present at lengthy meetings during which they had endeavoured to reconcile extreme positions. Accordingly, the United States delegation was ready to cede priority to that draft resolution so that a way might be found for the United Nations to take some meaningful action on the issues before the Committee.

23. Mr. VINCI (Italy) said that his delegation had followed the current debate with the closest attention and, although it had seemed that the many views expressed were irreconcilable, there had been signs that one idea was common to all delegations, namely, that international terrorism was deplorable and senseless and that something should be done to eliminate it. Some delegations had argued that immediate action should be taken against all forms of international terrorism. Others had emphasized the significance of the underlying causes of international terrorism and the need to eliminate them. The question of terrorism raised high emotions; there was no point in concealing the fact that some Governments felt more directly affected by it to the extent that they were more directly involved in political situations giving rise to terrorism. Yet there was another aspect which was of concern to the international community as a whole, namely, the fact that terrorism endangered the very fabric, structure and order of international society, and, as such, was a considerable challenge to the United Nations. At issue was not only the image of the Organization towards the outside world but also the respect which each individual as a moral human being could attribute to his own work within the Organization. The greatest possible detachment was necessary to live up to those high moral standards. He asked how otherwise representatives could face their moral responsibilities to themselves and to the world.

24. Introducing draft resolution A/C.6/L.879 on behalf of the sponsors, which had been joined by Austria, Guatemala, Honduras, Iran, Luxembourg, Nicaragua and the United Kingdom, he said that the draft was the product of a serious and intensive effort to devise a text which would be considered well-balanced by all members of the Committee. It did not reflect the views of any one delegation or group of delegations but was rather an attempt to accommodate all the opinions expressed during the debate. While the draft resolution was to a large extent self-explanatory, he wished to draw attention to some of the most significant provisions. For instance, the third and fourth preambular paragraphs made it quite clear that the right to self-determination was in no way impugned. The fifth preambular paragraph embodied an idea already enunciated in paragraph 10 of the Secretariat study (A/C.6/418 and Corr.1, and Add.1), which stated that, even when the use of force was legally and morally justified, there were some means which must not be used and that the legitimacy of a cause did not in itself legitimize the use of certain forms of violence, especially against the innocent. The sixth and seventh preambular paragraphs stressed the need to protect countries and individuals which were not parties to a conflict and were innocent victims of terrorism.

25. With regard to the operative part of the draft resolution, paragraph 1 clearly condemned acts of international terrorism, while paragraph 2 called upon all States to take measures to combat such acts. In paragraph 3, which urged Member States to co-operate to curb terrorism, the sponsors had decided to introduce a modification[8] to meet the views expressed by some delegations during the recent informal consultations: the words "notably the International Criminal Police Organization (Interpol)" had been deleted. Paragraph 4 called upon all States to become parties to and implement the relevant international conventions. Paragraph 5 requested the International Law Commission to prepare international legal measures to prevent and eliminate acts of international terrorism, especially those directed against innocent countries and individuals, including—in response to some Latin Ameri-

[8] Incorporated in document A/C.6/L.879/Rev.1, subsequently circulated.

can delegates—the dispatch of explosive devices through the mail; neither the provisions of that paragraph nor those of paragraph 6 would in any way affect peoples struggling for their freedom and independence from colonial rule. The sponsors had decided to modify paragraph 5: the words "in November 1973" should be replaced by the words "at the earliest practical date".[8] Paragraph 7 proposed the establishment of an *ad hoc* committee to study the underlying causes of international terrorism, while paragraph 8 asked the views and comments of Member States on the subject to be provided to the International Law Commission and to the proposed *ad hoc* committee. In other words, the sponsors were proposing that two parallel courses of action should be followed: on the one hand, the International Law Commission would prepare a preliminary draft convention on measures to combat international terrorism, taking into account the views and comments of Member States; on other hand, the proposed *ad hoc* committee would study the underlying causes of terrorism, also on the basis of Government comments and suggestions. The General Assembly would then be presented, at its twenty-eighth session, with material from both sources which would enable it to reach conclusions on what action to take, having full knowledge of what was legally and politically possible.

26. He wished to express the sponsors' sincere appreciation to the United States representative for acknowledging that draft resolution A/C.6/L.879 represented an acceptable middle-of-the-road solution and for offering to waive the priority which would have belonged to the United States draft resoltuion (A/C.6/L.851) under rule 93 of the rules of procedure of the General Assembly. Draft resolution A/C.6/L.879 was a sincere and honest attempt to reach a compromise between the various views expressed during the debate. The sponsors had already shown flexibility in accepting a number of amendments to the draft and were prepared to consider any further suggestions. It was necessary to proceed in a spirit of mutual co-operation and to avoid dividing the Committee on a matter of great concern to the international community at large. Draft resolution A/C.6/L.879 proposed interim action to cope with the spreading and frightening phenomenon of terrorism. It was necessary to demonstrate to world public opinion that the United Nations was responsive to its desires and was ready to take positive and fruitful action.

27. Mr. KRISHNADASAN (Zambia), introducing draft resolution A/C.6/L.880, the sponsors of which had been joined by Cameroon, Chad, the Congo, Equatorial Guinea, Guinea, Madagascar, Mali, Mauritania and the Sudan, said that the draft resolution was a sincere attempt to obtain the maximum consensus of opinion in the Committee and to win the support of all Members of the United Nations. It was for that reason that the tone of the draft might appear to be somewhat dispassionate; the sponsors had sought the middle way. He did not share the United States representative's view that the middle way lay in draft resolution A/C.6/L.879. In view of the difficulty of defining international terrorism and the divergent interpretations to which that concept had given rise, the sponsors of draft resolution A/C.6/L.880 had sought the lowest common denominator between the various opinions expressed.

28. The first preambular paragraph used the expression "Deeply perturbed over" rather than "Strongly condemning", because it was difficult to condemn outright a phenomenon of which interpretations differed. Further on in the resolution, provision was made for the establishment of machinery to arrive at a more precise definition of the problem. Contrary to what had been maintained, reference was made, in the second preambular paragraph, to the importance of devising measures to prevent the occurrence of acts of international terrorism; however, those measures were linked to a study of the underlying causes of such acts. It was essential to consider both sides of the question rather than study one in isolation from the other, as proposed in another draft resolution before the Committee. In recalling the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, the third preambular paragraph mirrored the provisions of the other draft resolutions which had been submitted; however, it did not specify the contents of the Declaration.

29. With regard to the operative part of the draft resolution, he wished to place particular emphasis on the expression "increasing acts of violence" in paragraph 1. In using that expression, rather than referring to "international terrorism", the sponsors were attempting to accommodate the views expressed in the Committee—many delegations, including his own, had expressed their preference for terminology of that kind—and to avoid the emotional connotations of the term "international terrorism". Much stress had been laid on the question of international public opinion; however, his delegation wished to emphasize that that concept encompassed not only those who were fortunate enough to be able to travel by air but also that part of the world which had not the remotest prospect of travelling by air—or by other means, for that matter—and which was condemned to a life of misery, frustration, grievance and despair. In that connexion, paragraph 2 urged States to find just and peaceful solutions to the causes underlying acts of violence. Paragraph 3, which was one of the central provisions of the draft, sought to meet the concern voiced by many delegations that colonial régimes should be given no excuse for suppressing the legitimate struggle of national liberation movements and peoples striving for self-determination and independence. That paragraph did not, of course, cover acts such as aerial hijacking for personal gain. Unlike other provisions of the draft resolution, paragraph 4 expressed condemnation, the reason being that, whereas international terrorism was an imprecise concept, the acts referred to in paragraph 4 were clearly and specifically identified. Paragraph 5 mentioned the problem of international terrorism in the context of a specific reference to existing conventions relating to the subject. Paragraph 6 invited States to take measures with a view to the speedy elimination of the problem, making it quite clear that such action should in no way impair the right to self-determination and independence proclaimed in paragraph 3. In paragraph 7, the sponsors had decided to

replace the word "question" by the words "subject matter".[9] It was noteworthy that the paragraph invited States to submit concrete proposals for finding an effective solution to the problem. While the objectivity and wisdom of the International Law Commission was generally recognized, the sponsors felt that, in view of the great political difficulties and complexities attaching to the problem, it could best be studied by an *ad hoc* committee, as proposed in paragraphs 8 and 9. In paragraph 10, the sponsors had decided to insert, after the word "recommendations", the phrase "for possible co-operation for the speedy elimination of the problem, bearing in mind the provisions of paragraph 3".[9]

30. The procedure for tackling the problem of violence and international terrorism proposed in draft resolution A/C.6/L.880 had been criticized as inadequate. However, the sponsors believed that that question could be handled properly and fruitfully only by means of a step-by-step approach. Firstly, it was necessary to request States to submit their views and proposals on the matter; those suggestions would then be analysed by the proposed *ad hoc* committee, which would submit its report, together with recommendations for possible co-operation, to the General Assembly at its twenty-eighth session. Under paragraph 10, the *ad hoc* committee would have a very positive mandate and might well submit proposals for international measures. On the other hand, the committee might reach the conclusion that, because of diverging views, the time was not ripe for any specific action. Aside from the question of international legal measures, the committee might recommend administrative measures of the kind recently taken in the United States to increase the effectiveness of protection at airports. On the basis of the comments of Member States, the committee would consider what kind of measures and co-operation were feasible and desirable. That was a very positive and constructive approach at the present juncture, bearing in mind the very recent origin of the item under consideration. It was for the *ad hoc* committee to determine the organization of its work. It might well decide to divide itself into two groups, one studying the question of possible measures and the other examining the underlying causes of acts of violence. However, it was important to emphasize that the whole question would be placed in the hands of a single organ.

31. He stressed that draft resolution A/C.6/L.880, far from being an extreme proposal, was a genuine effort by the non-aligned group of countries to devise a solution acceptable to all. The sponsors had attempted to meet the preoccupations and suggestions which had emerged from the consultations conducted by the Chairman.

32. Mr. CHARLES (Haiti) said that his delegation had on several occasions expressed its deep concern at the frequency of acts of blind violence which threatened peace and hampered the smooth functioning of the machinery between States and would give its full support to any solution which would bring an end to such acts. Draft resolution A/C.6/L.851 envisaged specific action and would have received the support of his delegation had it not omitted to mention the equally revolting and intolerable acts of terrorism perpetrated by the colonial régimes in Africa. His delegation was also unable to support draft resolution A/C.6/L.880, because it felt that paragraph 4 was not strong enough and that the draft resolution as a whole lacked objectivity. Draft resolution A/C.6/L.879 came closest to the views of his delegation and would therefore receive its support.

33. Mr. ALCIVAR (Ecuador) said that at first he had not understood why the item on terrorism had been allocated to the Sixth Committee, but had subsequently felt that it had been done in order to limit the study on the item exclusively to the legal aspect. Unfortunately, the statements in the general debate on the item had confirmed his original view that a separation of political and legal considerations was quite impossible, and he had noted that instead of eliminating the political aspects the Sixth Committee had emphasized them to the extent that what had been intended to be a debate on a legal question in fact turned into a political debate.

34. It was worthy of note that the principle of international law relating to the right of self-determination of peoples had not been accorded uniform treatment. With regard to the category of international crime assigned by international law to the actions of countries which maintained peoples in a colonial situation or subjected them to racial discrimination, he did not intend to comment on the insolent statements by delegations which claimed that the struggles of those peoples to attain their independence through liberation movements constituted acts of terrorism. Although the great Powers had recognized the principle of self-determination of peoples proclaimed in the Charter, they afforded protection to those States which violated that principle by selling arms to them. It was interesting to note that the range of interpretation given to the definition of an act of terrorism varied from the waging of chemical warfare in Indochina to rule by terror.

35. The general debate had indicated that the eminently political nature of the item made it difficult to establish a set of legal rules on terrorism. The legislative function was necessarily based on the interpretation of social reality; that was true at both the internal and international levels. The use of force in the internal sector was held to be a matter of internal jurisdiction, while in the international sector the universally binding legal rule was subject to its source of origin, particularly the convention.

36. The United Nations body which had prepared the most useful draft conventions containing rules of general international law was the International Law Commission. In the past, its work had been characterized by extreme meticulousness, thoroughness and well-established methods of work. It was therefore difficult to understand why draft resolution A/C.6/L.879 proposed that the Commission should draft a convention on measures to prevent international terrorism for adoption at a conference of plenipotentiaries at the earliest possible time. Furthermore, the terms of reference for the elaboration of the draft

[9] Modification incorporated in document A/C.6/L.880/Rev.1, subsequently circulated.

convention would be specified for the guidance of the Commission and an *ad hoc* committee composed of Member States would be established to study the causes of international terrorism. In other words, the Commission was called upon to provide a draft convention tailored to the taste and measurements of a client within a specific time-limit. Speaking as a member of the Commission, he wished to reject the unworthy role assigned to the Commission by the draft resolution. If the draft resolution was adopted, he would refuse to co-operate in its implementation.

37. In his view, the Commission had erred seriously in establishing a working group to study the series of draft articles on crimes against diplomatic agents and other internationally protected persons requested by General Assembly resolution 2780 (XXVI) instead of appointing a special rapporteur, as it should have done. However, its most serious and unjustifiable mistake had been to transmit the draft articles to the present session of the General Assembly. He and another member of the Commission had voted against the draft and had warned that the General Assembly would transmit other items which were essentially political in nature to the Commission in an attempt to turn them into exclusively legal questions. Their prophecy was coming true and the General Assembly was trying to use the Commission in order to evade its own political responsibilities.

38. The third preambular paragraph of draft resolution A/C.6/L.879 referred to certain principles of international law contained in the Charter and elaborated in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. At the 1860th plenary meeting, on 6 October 1970, his delegation had stated that, for reasons which it had already fully explained to the Sixth Committee, Ecuador was unable to accept the Declaration and would not therefore participate in its adoption by consensus. Therefore, his delegation could not accept the way in which draft resolution A/C.6/L.879 reflected those principles, particularly since they constituted a mandate for the Commission.

39. In the view of his delegation, if the General Assembly wished a draft convention with political connotations, the task should be assigned to a political organ composed of Member States, such as the *ad hoc* committee envisaged in document A/C.6/L.880. However, if the Commission was called upon to fulfil the task, no conditions or time-limit should be imposed by the General Assembly. There was no such crime as terrorism, which was a generic term encompassing a series of unlawful acts specified in the domestic legislation of each State. It had not yet been determined with absolute precision which constitutive elements distinguished political from common offences.

40. The only function which the Commission could appropriately fulfil would be to determine how such crimes under domestic law affected the international legal order.

41. Mr. BAROODY (Saudi Arabia), speaking on a point of order, said that, in order to facilitate the work of the Committee, he wished to propose certain amendments[10] to draft resolution A/C.6/L.880 in its revised form which he hoped would be equally acceptable to the sponsors of draft resolutions A/C.6/L.851 and A/C.6/L.879.

42. After a procedural discussion in which the CHAIRMAN, Mr. MIMICA (Chile), Mr. BOUAYAD AGHA (Algeria), Mr. ROSENSTOCK (United States of America), Mr. DIAZ GONZALEZ (Venezuela), Mr. KRISPIS (Greece), Mr. SANDERS (Guyana), Mr. SAM (Ghana), Mr. BEEBY (New Zealand), Mr. ARYUBI (Afghanistan), Mr. OULD HACHÈME (Mauritania), Mr. FREELAND (United Kingdom) and Mr. BRENNAN (Australia) took part, the CHAIRMAN invited the Committee to vote on a motion by Mr. ARYUBI (Afghanistan), supported by Mr. OULD HACHÈME (Mauritania) and Mr. BOUAYAD AGHA (Algeria), that the vote on the draft resolutions on the item before the Committee should not be taken before the meeting on Monday, 11 December 1972.

The motion was adopted by 63 votes to 14, with 30 abstentions.

The meeting rose at 7 p.m.

[10]Subsequently circulated as document A/C.6/L.895.