United Nations
GENERAL ASSEMBLY
SEVENTEENTH SESSION
Official Records

SIXTH COMMITTEE, 756th MEETING

Friday, 9 November 1962, at 3.15 p.m.

NEW YORK

CONTENTS

Chairman: Mr. Constantine EUSTATHIADES (Greece).

Tribute to the memory of Mrs. Eleanor Roosevelt

1. The CHAIRMAN invited the members of the Committee to join in a tribute to the memory of Mrs. Eleanor Roosevelt, and on behalf of the Committee expressed his sympathy to the United States delegation.

2. Mr. LANNUNG (Denmark), Mr. USTOR (Hungary), Mr. QUIÑONES (Guatemala) and Mr. AMADO (Brazil) associated themselves with that tribute.

3. Mr. SCHWEBEL (United States of America), on behalf of his delegation, thanked the members of the Committee for their expression of sympathy.

AGENDA ITEM 75

Consideration of principles of international law concerning friendly relations and co-operation among States in accordance with the Charter of the United Nations (A/5192, A/C.6/L.505, A/C.6/L.507 and Add.1) (continued)

4. Mr. COLLIER (Sierra Leone) said that the principles of international law expressed or implied in the Charter reflected the desire of men, overwhelmed by the ravages of the Second World War, to live in peace and to establish a climate of international opinion and standards of international conduct in which conflict would be eliminated and the sovereign rights of States respected. The events which had occurred since the United Nations Conference on International Organization in San Francisco proved the wisdom of that attitude. Apart from impressive economic and social changes, many new States which had formerly been colonial territories had appeared on the international scene. Among the principles underlying friendly relations and co-operation among States, the most important were those relating to the territorial integrity and political independence of States and the obligation to settle disputes by peaceful means. Those principles were of the utmost importance for countries like Sierra Leone because of their size and their resulting role in world affairs. Independence could only become a reality if there existed a code of international behaviour which guaranteed those principles.

5. His country unreservedly supported the principle that international relations should be governed by the rule of law, as it had demonstrated by taking a full part in the African Conference on the Rule of Law, held at Lagos in January 1961. The political independence of the new States could only be safeguarded through respect for law. The Charter made that one of the essential principles of the United Nations, and likewise established the right of self-determination and independence. Inherent in the latter principle was the right of every State to preserve its territorial integrity, particularly from the more powerful States, and the right to choose its own form of government without any interference. The developing countries considered it more advisable at the present time than ever before to recall that principle, observance of which would ensure that they could determine their political status and freely pursue their economic, social and cultural development.

6. In joining with other delegations to submit the draft resolution (A/C.6/L.507 and Add.1) now before the Committee, his delegation held that, even though those principles were clearly set forth in the Charter, their reaffirmation would proclaim the faith which the United Nations continued to place in them after so many years. That might mark the beginning of a new era of international co-operation and friendly relations under the rule of law.

7. Mr. AMADO (Brazil) said that friendly relations and co-operation among States were the very foundation of the welfare and progress of the international community. There was no other way at the present time in which war and total destruction could be prevented. Peace was not, however, a static thing. Peace should be conceived as something dynamic, and called for the study of new forms of communal life between individuals as well as between nations.

8. Speaking of peaceful coexistence in the modern world, Mr. Tunkin, the Soviet jurist and a member of the International Law Commission, had defined it as coexistence among States belonging to two radically different economic systems. That was undoubtedly an important aspect of the question. To become an effective instrument, however, international law should reflect all aspects of reality. Other factors had to be taken into consideration. Thus, the disintegration of colonialism had introduced into the community of nations a large number of States which desired to help in reducing tensions and to strengthen their independence through the establishment of peace and prosperity. Another factor was the existence of the nuclear threat. That influenced not only the decisions of the leaders but even the attitude of the ordinary citizen, who was increasingly inclined to consider that the moral order and legal institutions were in a precarious situation. For some time to come, the main problem of international relations would be the division of the world into rich and poor, developed and less developed

nations, which added to the ideological division between East and West an economic and social division between the northern and southern hemispheres. At the 1125th meeting of the General Assembly, Mr. Melo Franco, Chairman of the Brazilian delegation, had pointed out that the situation of the under-developed countries was tending to get worse rather than better. Their development, indeed, was often slower than their population growth. Moreover, by the logic of the process of economic development, one feature of which was the creation of regional trade organizations between developed countries, the value of raw materials was constantly declining. As long as that gap existed between countries, however, the conditions necessary for peace and equilibrium could not be established. Isolated measures or emergency programmes were not sufficient to correct that state of affairs; it was necessary to form a new conception of the world, of national interests, and of the reciprocal rights and duties of peoples.

9. The law was not built on abstractions but on social realities. Nevertheless, the preparation of legal instruments should help to establish the conditions necessary for the harmonious development of the community of States, in an atmosphere of mutual respect, security, co-operation, justice and liberty. Moreover, in a developing world the codification of law should be supplemented by its progressive development.

10. Two major principles could be laid down for that purpose: the principle of equal rights of peoples and their right of self-determination, stated in Article 1, paragraph 2, of the United Nations Charter; and the principle of the settlement of international disputes by peaceful means, stated in Article 2, paragraph 3, which was a sine qua non for the survival of contemporary civilization. Those two fundamental principles had as corollaries the principles of non-intervention, prohibition of the threat or use of force against the territorial integrity or independence of any State, and non-interference in matters essentially within the domestic jurisdiction of a State. Moreover, in face of the problems confronting humanity at the present time, equal rights and mutual respect were not enough. Peoples and individuals should practise solidarity and work for the common welfare. Those ideas were expressed in the provisions of Article 1, paragraphs 1 and 3, of the Charter, relating to political co-operation and economic, social, intellectual and humanitarian co-operation. Those were the principles on which to base the instruments which would help to solve the most urgent problems of the present era: the maintenance of peace, disarmament, denuclearization, the total abolition of colonialism, the imbalance between rich and poor nations, respect for fundamental human rights, and elimination of discriminatory or restrictive trade measures.

11. As his delegation had already pointed out at the preceding session—and as, incidentally, had also been brought out at the Forty-ninth Conference of the International Law Association held at Hamburg in 1960—it was extremely difficult to pass from general political concepts to precisely-stated legal corollaries. In addition, a question could not be referred to the International Law Commission for codification until it had reached a degree of legal development which would enable the Commission to rise above political positions, which were always unstable. With regard to coexistence among States, his delegation felt that the Commission could continue the work of codification and progressive development of law with due regard to international realities, but ought not to undertake tasks which would not lead to the submission of specific draft conventions acceptable to States.

12. When starting to consider the principles of international law concerning friendly relations and co-operation among States, it was first necessary to determine the goal, and then the working methods to be followed in keeping with that goal. It was also necessary to define the concept "principle of international law", and to distinguish as clearly as possible between purely legal and primarily moral principles. That was particularly difficult since certain moral principles, confirmed by constant practice, were often legal in character.

13. Although the two draft resolutions before the Committee proposed substantially different objectives and working methods, they were not irreconcilable. The Czechoslovak draft resolution (A/C.6/L.505) contemplated the immediate drafting of a declaration. A declaration on the principles of international law concerning friendly relations and co-operation among States, while having no binding force, would have great psychological value, and would do for relations among States what the Universal Declaration of Human Rights did for individual rights: it would guide and inspire States, peoples and individuals. Its dissemination and teaching would be bound in the long run to mould opinion. There was still the danger, however, of making the programme too ambitious or seeking to carry it out too rapidly, so that the proposed declaration might suffer the same fate as the draft Declaration on Rights and Duties of States (General Assembly resolutions 375 (IV) and 596 (VI)).

14. In order to avoid that danger, the eight-Power draft resolution (A/C.6/L.507 and Add.1) proposed that the subject should be treated in stages, by selecting first topics on which the fullest and most precise material was available, such as respect for the territorial integrity and political independence of States, and settlement of disputes by peaceful means. That method was preferable by the standards of caution and of pure legal technique. It might be feared, however, that excessive pursuit of perfection would postpone for a long time the production of a text which the community of States undoubtedly needed already.

15. His delegation therefore reserved its position on the substance of the two draft resolutions before the Committee. It hoped that the discussions at the present session would lead to general agreement. As a country with peaceful traditions, Brazil naturally favoured any measure that could strengthen peace. The President of the Brazilian Republic had recently declared at Brasilia, at the opening of the Fifty-first Inter-Parliamentary Conference, that a study of the existing world situation, and resolute action to point out to peoples and their leaders the duty of coexistence, were indispensable for the preservation of peace. His delegation was thus deeply concerned that the Sixth Committee's debate on the item should produce practical results. It hoped that the United Nations would not hesitate to take a position on a matter which could powerfully influence the destiny of future generations.

16. Mr. LANNUNG (Denmark), recalling Denmark's traditional attachment to the rule of law and equity, and its liberal outlook, said that his delegation held the work of the Sixth Committee and of the International Law Commission in high esteem and was gratified to

realize that the expansion in the membership of the Commission, required by the change in "the geography of international law", had proved beneficial to its work.

17. The eight-Power draft resolution (A/C.6/L.507 and Add.1) took into account the emergence of many new States and the contribution which they could make to the codification and progressive development of international law. The item had been placed on the agenda as a result of a decision taken at the sixteenth session concerning future work in that field (General Assembly resolution 1686 (XVI)). Some Governments, including the Danish Government, had communicated to the Secretary-General their views or suggestions concerning the codification and progressive development of international law. Denmark considered that the process of adapting international law to the ever-changing conditions of international relations should be pursued by the various means and procedures currently used within the competent international organs and organizations, in such a way that progressive development would be combined with the preservation of the indispensable elements of stability in international relations. If the exploration of certain fields of international law was to be profitable, it would have to be properly prepared. The selection of clearly-defined topics was of primary importance. The sponsors of the draft resolution were keenly aware of the predominant importance that must be given to the rule of law in international deliberations about the conduct of States and the relations among them, particularly for the achievement of the purposes of the United Nations. That was the reason why paragraph 1 had been included in the draft resolution. The Preamble and Article 13, paragraph 1 a of the Charter set as a main goal the establishment of the rule of law in the international community, which was, of course, one of the fundamental tasks of the Sixth Committee.

18. He whole-heartedly agreed with the Prime Minister of Canada that the community of nations was presented with a choice fundamental even to the survival of mankind—a choice between the rule of law and that uncertain path which had no laws to guide or control the selfish and arbitrary wills of men or to resolve the conflicts which beset them. The creation and interpretation of law, not by one or several States but by the common consensus and will of all, must regulate relations among them.

19. There had been a time in his country when might had been right, when all that counted had been brute force; but, as a result of the progressive development of law, the rule of law had been established with the introduction of law-courts and judicial authorities. The Jutland Law, promulgated in 1241, had proclaimed that the country should be built on the rule of law. In 1282 the first Danish Magna Carta had been drawn up; and the first code of laws for the whole Kingdom, assuring equality for all before the law, dated from 1683. The free Constitution of 1849 had been the final confirmation of the rule of law in Denmark and of human rights and fundamental freedoms for all its citizens.

20. In the same way as the rule of law had come in the course of time to prevail in particular countries, it must now be established among nations. The international community must be based on law to safeguard the observance of law and order in relations among States. Unfortunately international development of law lagged behind national development: armed force as a means of settling disputes must be replaced by negotiation and judicial decisions. The establishment of the United Nations was a big milestone on that road, and it was through the strengthening and development of the United Nations that the rule of law should be promoted.

21. International law was particularly important for the small States, because it protected their very existence. Hence they should take the lead in the movement to promote its development. National sovereignty must not prevent the United Nations from developing into an international body which could settle disputes and safeguard peace, and the Organization must eventually be provided with means of ensuring by force observance of the rule of law in relations among States.

22. Through the European Convention for the Protection of Human Rights and Fundamental Freedoms,[1] the sixteen member States of the Council of Europe had achieved the international protection of human rights on a regional basis. Thus national laws had acquired an international superstructure, and the European Commission of Human Rights and the European Court of Human Rights were significant innovations and important elements in that field. He paid a tribute to the important part in that work played by Mr. Modinos and the Legal Committee of the Council of Europe. By adopting the Convention, the member States of the Council of Europe had agreed for the first time in history to submit their actions affecting human rights to common international control. Those rights and freedoms formed the basis of democratic society, and by ensuring their protection a bulwark had been constructed against any retrograde step towards an undemocratic form of government. The European Convention carried the hopes expressed in the Universal Declaration of Human Rights into the realm of action; it was the most important legal instrument to have emerged from the deliberations of the Council of Europe and at the same time a very valuable political instrument. Other countries, especially the nations of Latin America, had taken an interest in that endeavour, and the Organization of American States was contemplating a similar move. He had felt it natural to mention those achievements in the establishment, expansion and safeguarding of the rule of law in relation to human rights in order to point out that, in contrast, the development of the rule of law among nations was lagging considerably behind.

23. The eight-Power draft resolution (A/C.6/L.507 and Add.1) was designed to institute a thorough discussion of the problem and leading the debate toward a concrete and positive solution, so that the fundamental objective—the codification and progressive development of international law—might be attained. Two topics for study were proposed—the obligation to settle disputes by peaceful means, and the obligation to respect the territorial integrity and political independence of States. The parties to a dispute could, of course, solve it by means other than compulsory proceedings. In particular, they could have recourse to negotiation, as envisaged in Article 33 of the Charter, and such settlements could contribute to the evolution of international law and, in fact, constitute one of the sources of law. But, like the Prime Minister of Canada, he thought that, to establish a world order based on the rule of law, there must be something more in existence than a mere machinery for settling international disputes. Compulsory proceedings were indispensable for the existence of the universal rule of law,

[1] United Nations, Treaty Series, vol. 213 (1955), I, No. 2889.

and all peace-loving States should seek to bring about the acceptance of the compulsory jurisdiction of the International Court; the United Nations might therefore consider studying how all Member States could be brought to use the Court more widely. Denmark considered that codification could assume its full significance and play its true role only if States accepted the compulsory jurisdiction of the Court. He hoped that the remarkable statements of the other sponsors of the eight-Power draft resolution had created an atmosphere of understanding in the Committee, and that the latter would concentrate on the legal aspects of the question, without, however, ignoring political realities. The draft resolution was intended to solve in a constructive and positive way the problem which the General Assembly had assigned to the Sixth Committee for examination, and should therefore obtain a wide measure of support.

24. Mr. USTOR (Hungary), recalling that in recent weeks it had been said that the Sixth Committee was living in a dream world, observed that dreaming and the realization of dreams were essential to the evolution of mankind. Just as on the technical level the ancient dream of Icarus had become a reality, so, at the level of co-operation and mutual understanding, the ideas of certain statesmen or even of poets dreaming of liberty in an age of absolute monarchy and slavery, or dreaming of world assemblies in which all States would take part, had been translated into fact. It could therefore be concluded that the Sixth Committee was far from withdrawing from earthly reality when it sought to protect the world, which was exposed to the dangers of weapons of mass destruction, by methods other than a precarious and dangerous equilibrium based on terror. That was its task and the task of all international jurists. The survival of the world depended on its ability to find the means of ensuring peace between all States, regardless of the differences in their political, economic and social systems—which was impossible without a legal organization. The main elements of the legal framework of peaceful coexistence were set out in the Charter of the United Nations, which was now part of universal international law; since the drafting of the Charter, however, the world had undergone transformations which had had repercussions on international law. That was why the Sixth Committee must now discover norms corresponding to the realities of modern life, which could serve States as a guide.

25. The essential task of the Sixth Committee was to determine fundamental principles of international law concerning peaceful coexistence—principles on which all States could agree and which would help to restore mutual trust between States and to preserve peace. Many doubts had been expressed as to the meaning of the expression "peaceful coexistence", although the latter had been defined in very clear terms. As the Minister for Foreign Affairs of Hungary had stated in the General Assembly, "The foreign policy of the Hungarian people is guided by the principle of peaceful coexistence. We strive to create a still more intimate relationship with the countries with which we already have friendly ties; we want to have friendly relations with the countries with which these relations are now normal or correct, and we seek to establish normal relations with the countries with which our relations are, for the time being, unsatisfactory or even bad." (1138th plenary meeting, para. 130.)

26. It was in that spirit that his delegation warmly welcomed the initiative of the Czechoslovak delegation and the draft resolution (A/C.6/L.505) which it had submitted. That draft concisely summarized the principles set forth in the Charter and added to them a number of important new principles. He could not agree with the opinion expressed by the representative of Japan (754th meeting) that the Czechoslovak draft was too ambitious; to think that would be to misjudge the quality of the efforts and the strength of will of the Sixth Committee, and hence of the General Assembly.

27. The Czechoslovak draft resolution was not a collection of abstract postulates, but a reflection of the present state of international affairs and of the sense of law which had developed in the world. Section I of the draft contained simply the principles which were enumerated in the Charter or which stemmed directly from that instrument. Section II enumerated the democratic principles of classic international law as they could and must be applied in the present-day world. Those principles were not new; the only novelty was that they were to be applied in all States, without distinction. Section III restated the right of nations to self-determination, in accordance with Articles 1 and 2 of the Charter, as well as the principle which automatically flowed from it—the elimination of colonialism in all its forms; for, as Lenin had said, no nation was free if it held other nations in subjection, and only the total liquidation of colonialism would permit the colonizers to cast off the shame with which they had covered themselves by building their well-being upon the blood and sweat of other peoples. The other principles formulated in the draft resolution were of no less importance, and his delegation wished to congratulate the Czechoslovak delegation on the result of its work.

28. The eight-Power draft resolution (A/C.6/L.507 and Add.1) was far more modest. Although it stressed two particularly important questions, it was not in line with the objectives of General Assembly resolution 1686 (XVI). It did not seem possible for the entire problem to be examined at the present session; yet such a restriction of the scope of the discussions was out of the question. The Czechoslovak draft was an excellent working document, which could serve as a point of departure for consideration of the question as a whole. That did not prevent other delegations from submitting other documents. He thought that a detailed examination of the principles of international law was of special importance because of the contribution which could be made in that respect by the new States that had attained independence since the Second World War. The time was past when international law could be systematically imposed by a small number of States. The new States needed special protection and had the right to be heard during the examination of the fundamental principles of international law, and the unduly restricted framework of the eight-Power draft resolution would not secure for them that right.

29. In conclusion, he hoped that the sponsors of the two draft resolutions would achieve a synthesis enabling a complete and detailed study of the principles of international law concerning peaceful coexistence to be made, with the participation of the representatives of the new States.

30. Mr. QUIÑONES (Guatemala) observed that the two draft resolutions before the Committee rais such important questions that it would be desirable for

delegations to have a little more time to study them and to state their views.

31. The only shortcoming of the eight-Power draft resolution (A/C.6/L.507 and Add.1) was its limitation of the objectives of the United Nations Charter, in that it proposed the study only of the obligation to respect the territorial integrity and political independence of States and of the obligation to settle disputes by peaceful means. The Czechoslovak draft resolution (A/C.6/L.505), on the other hand, was broader in scope. It had the advantage of covering a greater number of principles, and of doing so in the form of a solemn declaration by the General Assembly. However, it seemed that those principles could be interpreted in very different ways by each State and be viewed from the diverse standpoints of different doctrines of international law. His delegation believed that it was unnecessary to go to such lengths, especially since, if the General Assembly was to adopt that declaration, the other Committees concerned with those questions would have to study them beforehand.

32. His delegation was pleased to note that, in the Czechoslovak draft, the first place in the declaration was assigned to the obligation to take measures for the maintenance of international peace and security. Respect for that obligation would obviate the need for principles 2 to 7, which were merely corollaries of principle 1. That was one of the points which his delegation felt should be studied more specifically and at greater length.

33. It was, however, regrettable that no mention had been made of the danger to peace represented by the political inequalities which placed certain countries in a privileged position in relation to others. Those countries could employ such a position for purposes of domination and direct action against the Governments and peoples of other nations, by launching from abroad campaigns which ostensibly concerned with domestic policies, in fact were only cold war battles. There were two political systems in the present-day world, one based on a plurality of parties and the other on a single party. For the countries of the latter system, the organization of international political parties in the service of countries controlling them could not constitute a threat; for the others, it represented a direct attack—not an indirect one, as the use of economic methods might be—and therefore a serious danger. The existence of those international parties would be a constant source of ill-will among nations, militating against all friendship and co-operation, and a risk more serious than the threat of force, because a country attacked from within would tend to react in self-defence. Any declaration of the principles of friendship should therefore rest upon the banning of that type of party which constituted interference in the domestic politics of countries, an interference against which the country affected had every right to react.

34. Moreover, the Guatemalan delegation believed that the desire for peace should be a universal principle and not a political slogan. It was an ideal which should be employed only in the universal interest, quite apart from politics. In addition, his delegation felt that it was particularly important to safeguard territorial integrity, which had two sides: respect for the territory already legitimately in the possession of a country, and the return of territory which rightfully belonged to it.

35. Other questions could be added to the declaration, but they would require prolonged study. His delegation would be in favour of the eight-Power draft resolution, provided that it was not confined to two points but included the principles listed in the Czechoslovak draft as they were set out, without the accompanying comments which might give rise to discussions on substance and form. The comments might be considered at the next session. He also hoped that there might be added to the declaration the two following points: the obligation not to support or direct international parties or groups, either directly or indirectly, and the banning of their use for purposes of intervention in the internal politics of other countries; and the principle that peace constituted a permanent aspiration of all mankind, not to be used for political or social propaganda.

36. At the next session, when the observations of Governments had been received, a declaration could be drafted, comparable in scope to the Universal Declaration of Human Rights.

37. Mr. TANIGUCHI (Japan), speaking in exercise of his right of reply, remarked that the representative of Hungary seemed to have misunderstood his delegation's comments on the Czechoslovak draft resolution (A/C.6/L.505). Nothing in the Japanese statement could be interpreted as underestimating the scope of the work which the Sixth Committee might accomplish.

The meeting rose at 5.15 p.m.

Litho in U.N. 77601—May 1963—2,075