

United Nations  
**GENERAL  
ASSEMBLY**

TWENTIETH SESSION

Official Records



**1406th  
PLENARY MEETING**

Tuesday, 21 December 1965,  
at 10.30 a.m.

**NEW YORK**

**CONTENTS**

	Page
<i>Agenda item 58:</i>	
<i>Draft International Convention on the Elimination of All Forms of Racial Discrimination</i>	
<i>Report of the Third Committee . . . . .</i>	<i>1</i>

*President:* Mr. Amintore FANFANI (Italy).

**AGENDA ITEM 58**

**Draft International Convention on the Elimination of  
All Forms of Racial Discrimination**

**REPORT OF THE THIRD COMMITTEE (A/6181)**

*Mr. Macdonald (Canada), Rapporteur of the Third Committee, presented the report of that Committee and then spoke as follows.*

1. Mr. MACDONALD (Canada), Rapporteur of the Third Committee: As the Assembly is aware, in resolution 1906 (XVIII), entitled "Preparation of a draft international convention on the elimination of all forms of racial discrimination", the General Assembly requested the Economic and Social Council to invite the Commission on Human Rights to give absolute priority to the preparation of a draft international convention on the elimination of all forms of racial discrimination.

2. On the basis of a preliminary draft prepared by the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights prepared in 1964 seven substantive articles which the Economic and Social Council transmitted to the General Assembly in resolution 1015 B (XXXVII) of 30 July 1964.

3. At the present session of the General Assembly the Third Committee considered in great detail, at forty-three meetings, and adopted unanimously a draft convention comprising a preamble and twenty-four articles. These twenty-four articles are divided into three parts. Part I consists of the substantive articles; part II, of articles on implementation; part III contains the final clauses.

4. I wish to draw to the Assembly's attention the fact that the Third Committee decided not to include a territorial application clause, a federal clause or a reservations clause in the draft convention. On the reservations clause the Assembly has before it an amendment submitted by thirty-three Powers [A/L.479]. There is also an amendment to article 4 by five Latin American Powers [A/L.480].

5. I would also draw the Assembly's attention to the two draft resolutions which appear in paragraph 212

of the Third Committee's report [A/6181] and on which the Assembly is requested to take action.

6. Lastly, I would draw the attention of the Assembly to the report of the Fifth Committee [A/6182], which deals with the financial implications that arise in connexion with part II of the draft Convention, on measures of implementation.

7. Mr. LAMPTEY (Ghana): I should like to introduce the amendment contained in document A/L.479. We have submitted this amendment because, to many delegations gathered here, the absence of a reservations clause from the draft Convention is a major flaw that could conceivably nullify the effect of the Convention ab initio. That the reservations clause was deleted in the Third Committee, by a vote of 25 to 19 with 34 abstentions [see A/6181, para. 194], was itself a tragic circumstance and could have happened only because we were all tired and the effect of this action was not obvious to many. We believe that, on second thought, most delegations now realize the necessity of a reservations clause: the number of co-sponsors of the amendment bespeaks that fact.

8. The three-paragraph clause that we promise is simple enough and is a restatement in positive terms of a formulation which enjoys wide support with respect to reservations to multilateral conventions. Before dealing specifically with this text and with reservations generally, however, I should like to comment briefly on the articles of the Convention which purportedly would be subject to significant reservations.

9. First, there is article 4, the first paragraph of which has given concern to some delegations. It should be recalled that that paragraph was the outcome of a difficult compromise after hours, and even days, of discussion, drafting and redrafting. In that process, most of us yielded from fixed positions, and no argument has since been brought forth to show that this article would be in derogation of the fundamental right of freedom of speech.

10. We listened very carefully to the recent intervention of Mr. Goldberg, in which he touched upon this subject, and we can suggest only that a reservation would not be the proper mode of dealing with this matter. It was the consensus in the Committee that this article should not be in derogation of "the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention". Thus, a unilateral declaratory statement as to this consensual interpretation is what is necessary, and not a reservation, for a reservation, ipso facto, amounts to a

modification and in this case, a modification of a difficult compromise.

11. What can be reiterated also is the correlative consensus of the Committee that these fundamental freedoms should not be employed to violate the purposes and objectives of this Convention. It is for this reason that we cannot accept a new formulation of article 4.

12. Articles 14 and 15 have also created some concern among certain delegations. As for article 14, its very optional nature makes it necessary to comment thereon. In our view, a juridical position that denies that a State, in exercise of its own sovereign will, can grant to individuals within its borders a right of petition to an international forum is tenuous, to say the least. Article 15, however, is another matter.

13. My delegation took an active part in objecting to the original article 13 bis and to the reformulation of the present article 15. We objected to article 13 bis because we believed that it was legally dubious to extend mandatorily a right denied the citizens of a metropolitan State to the colonial subjects of the State through an instrument of this type. It is, however, different when a procedural link between bodies of the United Nations and a body established through a multilateral convention and charged with the common task of achieving the purposes of the Charter is contended to be in violation of law. Such a contention is based on political expediency and is legally spurious.

14. In the first place, the Members of the United Nations have undertaken certain obligations in respect of human rights. We are aware that there is a divergence of viewpoints among the authorities concerning the legal effect of Articles 55 and 56—the so-called human rights Articles of the Charter. While Hudson, Kelsen and Drost, among others, claim that these Articles are not constitutive of enforceable legal norms, they agree that

"The Members"—of the United Nations—"have undertaken to act in conformity with the Purposes of the Organization. They have legally committed themselves to a legislative program, national and international, in respect of human rights." <sup>1/</sup>

15. Even the Legal Adviser of the United States Department of State in his famous memorandum to the Attorney-General in connexion with the McGhee and Shelley cases did admit that the Articles

"appear to place Member States under the obligation to co-operate with the United Nations in the carrying out of its function, which is stated here and elsewhere in the Charter as being the promotion of universal respect for and observance of human rights and fundamental freedoms". <sup>2/</sup>

But for the failure of the conference at San Francisco twenty years ago to adopt the proposal of the representative of Panama for a positive declaration that one of the purposes of the United Nations would be

"to see to it that the essential liberties of all are respected without distinction of race, language and creed", there would have been no doubt about the legal effect of the human rights provisions. We for our part agree with Sir H. Lauterpacht that the cumulative legal result of the various human rights pronouncements of the Charter cannot be ignored and that the legal character of these obligations of the Charter would remain even if the Charter were to contain no provisions of any kind for their implementation. As that distinguished English jurist has said:

"Any construction of the Charter according to which Members of the United Nations are, in law, entitled to disregard—and to violate—human rights and fundamental freedoms is destructive of both the legal and moral authority of the Charter as a whole...[and] runs counter to a cardinal principle of construction according to which treaties must be interpreted in good faith." <sup>3/</sup>

16. If the principle pacta sunt servanda is accepted, then all the Members of this Organization are under legal obligation to accept the right of petition expressly granted to the peoples of the colonial territories under the provisions of the Charter and extended by the establishment of constituent United Nations Committees of permanent and ad hoc nature.

17. If we cannot, arguendo, deny the legality of the bodies to which these petitions lie, we cannot question the legal validity of a procedural link between the Committee established under this Convention, a convention adopted under the aegis of the United Nations with the aim of achieving a pre-emptory purpose of the Charter—the elimination of all forms of racial discrimination, which is an essential requisite in the realization of the dignity and worth of man—and the established bodies of the United Nations to which its counsel would be highly useful. That is all that Article 15 attempts to do.

18. Article 71 of the Charter authorizes the Economic and Social Council to consult and co-operate with other international, national and non-governmental organizations handling matters which fall within its purview, and such co-operation has significantly helped that Council to achieve its goals.

19. The Constitution of the International Refugee Organization provides that it may establish

"Such effective relationships as may be desirable with other international organizations"

and that it is

"to consult and co-operate with public and private organizations whenever it is deemed advisable, in so far as such organizations share the purpose of the Organization and observe the principles of the United Nations".

20. The Constitution of the International Civil Aviation Organization, the ILO and many others have similar provisions, and, as Sir H. Lauterpacht says, while these

"provisions add little to the formal status and procedural capacity of the individual... in the inter-

<sup>1/</sup> Pieter N. Drost, Human Rights as Legal Rights (Leiden, A.W. Syt-hoff, 1951), p. 29.

<sup>2/</sup> H. Lauterpacht, International Law and Human Rights (London, Stevens and Sons, 1950), p. 149, foot-note.

<sup>3/</sup> Ibid., p. 149.

national sphere,...they illustrate both the inadequacy of the hitherto predominant doctrine and the manner in which international practice may soften and eventually discard a rigid rule no longer in keeping with modern needs".<sup>4/</sup>

21. The various specialized agencies in special relationship with the United Nations are all beings of separate and distinct international treaties: their memberships are different in instances from that of the United Nations. Thus there are several precedents for the procedural link envisaged between the Committee and other United Nations bodies. The *raison d'être* for this co-operation is that these bodies are all dedicated to the achievement of Charter objectives.

22. The Committee established under this Convention may, within a relatively short period, achieve expertise in problems of racial discrimination. In such case would its advisory role to a United Nations body like the Committee of Twenty-Four not far outweigh in results the slim possibility of political propaganda for which its comments and recommendations could be used? Those who would oppose this procedural link could base their opposition only on political considerations and not on legal or constitutional factors.

23. Let me now turn to the question of reservations generally. It is true that the subject of reservations is a complex one, but let us not exaggerate this complexity.

24. The practice followed by the League of Nations with respect to multilateral conventions was that, to be valid, a reservation must be accepted by all contracting parties. Substantially the same practice was followed by the Secretary-General of the United Nations until the decision of the International Court of Justice<sup>5/</sup> on the Genocide Convention. The rule adhered to by the Secretary-General then was formulated by the International Law Commission in 1951 as follows:

"A State may make a reservation when signing, ratifying or acceding to a convention, prior to its entry into force, only with the consent of all States which have ratified or acceded thereto up to the date of entry into force; and may do so after the date of entry into force only with the consent of all States which have theretofore ratified or acceded."<sup>6/</sup>

25. The difficulty that has arisen in recent years with respect to reservations has come about mainly because of the sharp multiplicity and varied nature of multilateral conventions since the Second World War and the attainment of nationhood by many colonial peoples that were not party to the development of the traditional concepts of international law; but there is sufficient evidence both of the old and of the new concepts to guide us. Restricting ourselves, then, to the type of humanitarian convention before us, let us hear what some of the experts have to say.

<sup>4/</sup> *Ibid.*, p. 29.

<sup>5/</sup> Reservations to the Convention on Genocide, Advisory Opinion: I.C.J. Reports 1951, pp. 29 and 30.

<sup>6/</sup> Official Records of the General Assembly, Sixth Session, Supplement No. 9 (A/1858), para. 19.

26. According to Lord McNair,

"The law leaves the negotiating parties completely free to create their own rules governing the question of reservations to the particular treaty in the negotiation with which they are concerned. They are at liberty to insert in the treaty a clause dealing with reservations, and it is in this way that they can comply in advance with the principle of unanimous consent, which is the basis of treaty obligations. Fidelity to this principle forms no obstacle to the desire to create greater flexibility in the matter of reservations in order to encourage and facilitate the universality of obligations, on the one hand, without destroying on the other hand the essential degree, though not necessarily the complete degree, of uniformity of obligation."

And he adds:

"What is vitally necessary is to draw the attention of groups of States engaged in negotiating a treaty to the imperative necessity of facing up to the question of reservations and inserting in each treaty the clause appropriate to it in that particular case, whether the clause forbids reservations or permits them. In the case of treaties negotiated under the auspices of the United Nations it is the practice of the Secretariat to do this, and it was expressly done when the Genocide Convention was being negotiated, but without result; for that Convention contained no article dealing with reservations."<sup>7/</sup>

I want to repeat: "for that Convention contained no article dealing with reservations".

27. Sir Hersch Lauterpacht, commenting on the projected International Bill of the Rights of Man, the idea from which this Convention emanated, stated:

"The dignity and effectiveness alike of the Bill demand that there should be no room in it for reservations of any kind or description. The Bill of Rights is a Bill of the fundamental rights of man. The idea of any reservations to them is, *prima facie*, objectionable...if reservations were to be appended in large numbers they would lend substance to the charge that governments hope to contrive to become parties to a basic international enactment without undue sacrifice."<sup>8/</sup>

28. It is not only the publicists who speak in this vein. In the drafting both of the Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery of 1956, and of the UNESCO Convention against Discrimination in Education of 1960, the discussions now going on here took place. In these instances the reservations clause finally adopted was similar to that proposed by Chile and Uruguay to the draft covenants which state in essence: "Reservations to this Convention shall not be permitted."

29. It would perhaps be useful for our understanding of the problem if we listened to some of the arguments

<sup>7/</sup> Lord McNair, *The Law of Treaties* (Oxford, Clarendon Press, 1961), pp. 169, 170.

<sup>8/</sup> H. Lauterpacht, *op. cit.*, p. 390.



that finally won the day during consideration of the Slavery Convention.<sup>9/</sup>

30. The Argentine representative, Mr. Beltramino, had suggested the deletion of the reservations clause. To this Miss Lunsingh-Meijer of the Netherlands demurred, arguing that the absence of a reservations article would raise serious difficulties and complicated legal questions. Mr. Jafri of Pakistan, in a penetrating analysis, stated that if reservations were to be allowed there would be little justification for all the efforts which had been made to secure a generally acceptable text, and added that whatever might be said about the sovereign rights of States, reservations detracted from the efficacy and advantages of any multilateral convention, whatever its object. Reservations were necessary only in cases where highly controversial articles had been forced through by the pressure of "brute majority" voting.

31. In the view of the French representative, Mr. Giraud, the main point to bear in mind was that conventions most commonly rested on compromises and, in those circumstances, reservations enabling States to accept what they liked and reject what they did not like would upset the balance of the convention and certain States would feel that they had been unfairly thwarted. The Turkish representative, Mr. Tuncel, objecting to the Argentinian proposal, said he had the impression that some delegations had the draft covenants on human rights particularly in mind and that they would not like any precedent to be created which would affect possible reservations to the covenants. This of course should not be a fear.

32. But perhaps the most articulate representation against deletion was that of the United Kingdom representative, Mr. Scott-Fox. He said that the opponents of the reservations article had based their objections on the principle that the inclusion of a non-reservations clause was incompatible with the sovereign rights of States. He disagreed. If, on becoming a party to the Convention, a State agreed that no reservations to it should be allowed, it would not be doing anything incompatible with its sovereign rights. Each case would of course have to be considered on its merits, but there were a certain number of conventions, including the present one, reservations to which would open the door to modifications that would destroy the fundamental value of the convention. It was in the interests of all States intending to become parties to the Convention that they should agree beforehand to allow no reservations. The International Court's advisory opinion in connexion with the Genocide Convention had not, in the opinion of many international lawyers, resolved the difficulties with respect to reservations. It was for that reason that, by its resolution 598 (VI), the General Assembly had recommended that organs of the United Nations, specialized agencies and States should, in the course of preparing multilateral conventions, consider the insertion therein of provisions relating to the admissibility or non-admissibility of reservations and to

the effect to be attributed to them. It was in accordance with that resolution and to avoid the many difficulties that reservations would create that the article on reservations had been included in the draft.

33. We have quoted the summary of Mr. Scott-Fox's statement extensively because it is cogent and apt and applies with full force to the present case; for, in our view, slavery is the mother of racial discrimination and we cannot understand a change of attitude with respect to the anti-discrimination Convention before us. Furthermore, none of the articles of the draft Convention of the elimination of all forms of racial discrimination has been adopted by "brute majority" voting, to use Mr. Jafri's words. Each has been the result of a deliberate and fine compromise and has been adopted almost overwhelmingly.

34. With respect to the UNESCO Convention on Discrimination in Education, it is pertinent to quote the report of the Special Committee of Governmental Experts, which met in Paris from 13 to 29 June 1960, on this question:

"The authors of the draft Convention, while mindful of the necessity of preparing a text capable of ratification by the largest possible number of States, felt that that consideration should not have the effect of detracting from the creative value of the text prepared or of weakening the principles and rules enunciated. The draft Convention accordingly precludes the possibility of States making reservations to it."

35. Most of the co-sponsors of the amendment before us share the viewpoints so ably stated by the publicists, governmental experts and governmental delegates, and we would have liked to introduce the Chilean-Uruguayan proposal that precludes reservations completely. However, in a spirit of compromise and to avoid a long debate in plenary, we are proposing this three-paragraph reservations article. One thing that all who are conversant with this subject are agreed upon is that the question of reservations must be squarely faced by the conference that adopts a multilateral convention. This is what the Secretary-General as depositary would want us to do; this is what we insist must be done.

36. First, recognizing the fact that all the Members of the United Nations have been afforded the opportunity to participate in the negotiation and adoption of the Convention, and that as a human rights instrument its reach must be universal, we have proposed in paragraph 1 that the Secretary-General, as the depositary of the Convention, should circulate any reservation among the signatory States indicated in article 17 of the Convention for their consideration. This is no innovation, for it has been applied by several conventions among which is the Convention on the Political Rights of Women. And as reasoned by the International Law Commission in its Yearbook of 1951, at the time a reservation is tendered, "a signatory State may be actively engaged in the study of the convention, or it may be in the process of completing the procedures necessary for its ratification, or for some reason, such as the assembling of its parliament, it may have been com-

<sup>9/</sup> United Nations Conference of Plenipotentiaries on a Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices similar to Slavery, Geneva, 13 August-4 September 1956.

pelled to delay its ratification." <sup>10/</sup> We share the opinion of the International Law Commission that the objection of such a State should have no legal effect but serve as indication of the State's attitude with respect to the reservation. Upon the ratification or accession of the State, however, its objection will become legally effective unless the objection is withdrawn. Thus States will have the opportunity to assess the eventual fate and effect of proposed reservations.

37. In paragraph 2 we have adopted the formulation of the International Court of Justice as to compatibility in its decision on the Genocide Convention in the first part of the first sentence, *a fortiori* applied to the second part of the sentence. In the second sentence we have provided that the objection of two thirds of the States Parties is tantamount to non-acceptance of the reservation. This is a departure from the traditional concept of unanimity and is one that was widely shared during the consideration of the question by the International Law Commission in 1962. It is similar to but even weaker than the proposal of the United Kingdom to the draft Convention which would deem a reservation to be accepted "if not less than two-thirds of the States to whom copies have been circulated in accordance with this article accept or do not object to it within a period of three months following the date of circulation". It is no innovation but it is a clause which this Assembly as master of its house can adopt to save the Convention from destruction and a great number of law suits over interpretation.

38. A suggestion that the International Court of Justice replace the States in this matter is untenable, for it is the States that have negotiated and will adopt this Convention. It is their intent which is vital to any judicial construction as to interpretation and it is they who must have the primary responsibility of guaranteeing the integrity of the Convention. Their actions, even if political, will be based on their understanding of the consensus achieved in adopting the Convention and as to the purpose and object they mutually had in mind when inserting the various articles. Of course, in the case of a dispute, the Convention, by article 21, will have given ultimate jurisdiction to the International Court of Justice.

39. The third paragraph is self-explanatory and needs no comment. Repetitious as it may sound, let me quote the advice of the International Law Commission on this question:

"It is always within the power of negotiating States to provide in the text of the convention itself for the limits within which, if at all, reservations are to be admissible and for the effect that is to be given to objections taken to them, and it is usually when a convention contains no such provisions that difficulties arise. It is much to be desired, therefore, that the problem of reservations to multilateral conventions should be squarely faced by the draftsmen of a convention text at the

time it is being drawn up; in the view of the Commission, this is likely to produce the greatest satisfaction in the long run." <sup>11/</sup>

40. Finally, let me emphasize that this Convention is the result of a remarkable compromise between gentlemen. We cannot therefore conceive of a State wishing to frustrate its object and purpose, an object and purpose that is already bound by the Charter, and most likely by its own Constitution, to realize. But if a State wishes to do this, then other like-minded States interested in the Convention are in duty bound to ensure the integrity of the Convention and to prevent it from becoming a variety of conventions.

41. Many of us were not here—in fact we were not independent—when the General Assembly unanimously adopted the resolution Mr. Scott-Fox referred to, but we are now loyal Members of the United Nations, and the Assembly's wishes are our commands. It is in this spirit that we propose our amendment. It is in this spirit that we expect it will receive unanimous approval.

42. Mr. BELTRAMINO (Argentina) (translated from Spanish): First of all, I should like to thank my friend the representative of Ghana for referring to the statement I made at the Conference on Slavery in 1956, which shows that our position in regard to the reservations clause is not of recent date. From the very first mention of the idea of introducing at this late hour in the General Assembly, when we are almost at the end of our labours, a new draft article concerning the reservations clause, we were opposed to it for the following basic reasons: in the first place, because the question of the submission of reservations is a very serious one, since it touches very closely on the question of the sovereignty of States, and because in the past, even in the United Nations, it has been handled in a great variety of ways according to the particular Convention involved, so that we cannot speak of uniform practice. Secondly, because the fact that the text was submitted so late made it impossible for delegations to have the proper consultations with their Governments.

43. We understand perfectly well the desire to ensure that reservations do not in any way undermine the Convention itself, which was drawn up with such labour and patience by the Third Committee. This seemed to us only common sense, and therefore we feel that oratorical displays indulged in for the purpose of attacking or defending the attitude of this or that country in the past are superfluous, simply because they are unnecessary. This is not the subject under discussion here. The question is whether a provision adopted in haste can serve the purposes of the Convention, the vigorous and unequivocal implementation of its clauses, and encourage its adoption by all States Members of the United Nations.

44. This twofold purpose was borne in mind constantly by my delegation and the other Latin American delegations while the Convention was being drawn up. Some will argue that the new article on reser-

<sup>10/</sup> Yearbook of the International Law Commission 1951, Vol. II (United Nations publication, Sales No.: 57.V.6), document A/1858, para. 29.

<sup>11/</sup> Official Records of the General Assembly, Sixth Session, Supplement No. 9 (A/1858), para. 27.

vations in document A/L.479 is too weak; others will find it acceptable. But there is no doubt about it—this is not just one further article in the Convention; the principles involved are of importance, as I feel sure my co-sponsors would agree.

45. We do feel that it is desirable to have a reservation clause in this Convention; but rather than incorporate in the text a clause which has not been fully weighed, a clause on which Governments have not been properly consulted, it would be better from every point of view not to have any clause on reservations whatever. This is a special kind of Convention with a peculiar system of implementation, and it deals, moreover, with a problem whose solution will be under constant supervision by a special committee and by the General Assembly. Hence we do not feel that reservations appropriate to earlier conventions can be adapted to suit it, at least not without thorough study.

46. Our attitude is one of principle, although we agree that even if there is no reservation clause, reservations must not inhibit the aims and purposes of the Convention, the noble humanitarian and practical ends it is designed to subserve. If they did, we should regard it as a calamity. We do not feel it is acceptable, merely because it has not been possible to produce a better formula or out of a desire to restrict the reservations that a particular State may make, simply and solely to decide that reservations shall be subject to the approval of two thirds of the States Parties to the Convention. Even without any such proviso, there is nothing to prevent the Committee provided for in the Convention from entering into negotiations with the State or States concerned with a view to inducing them to reconsider their attitude—a point which is not covered by the thirty-three-Power amendment [A/L.479], and even with a view to making suggestions to the General Assembly regarding the reports which the State involved has to submit. This way might be less spectacular than requiring sanction by a two-thirds majority, but it might also be more effective in practice. My delegation will therefore be unable to vote for the draft article in its present form.

47. I would now like briefly to introduce the amendment appearing in document A/L.480. It refers to article IV (a) of the Convention and is very simple. Its purpose is to remove an inconsistency in the text as it stands. We decided to submit this text in the light of other amendments to the Convention already submitted. We should like to make it emphatically clear at the outset that we resolutely support the provisions of article IV in so far as they provide for penalties to be imposed by law on organizations practising racial discrimination, propaganda activities, acts of violence and the incitement or promotion of discrimination. Here again, our position is not new. As is well known, in 1963, when the Declaration on the Elimination of All Forms of Racial Discrimination was considered, it was the Argentine delegation that proposed—and the proposal was subsequently adopted by the General Assembly [resolution 1904 (XVIII)]—that consideration should be given to the question of both the promotion of and incitement to racial discrimination. In fact, we went even further

here than article IV (b). It is also a well-known fact that the Argentine penal code lays down a number of penalties for such discrimination with a view to preventing any discrimination that may arise in the future. Our position is thus clear and unequivocal in the matter.

48. Secondly, at the very outset, when the Committee considered an amendment to article IV (a) condemning the mere oral or written expression of the notion of superiority of one race over another, my delegation and others as well were flatly opposed to this. Our attitude is thus one of principle and is consistent. What we are anxious to condemn and proscribe as categorically as possible is not the fact that, for example, a scientist may publish a document pointing out differences between individuals of different races, as has occurred in the past and as still happens today, nor public discussions on such subjects between two or more persons. What we condemn is any incitement to racial discrimination as a result of such publications or discussions. In this event the State must take vigorous action at all times to nip in the bud incitement to racial discrimination by such means.

49. This, then, is the limit of freedom of speech as we understand it. The mere expression of ideas is not in itself punishable if it is not accompanied by incitement to discrimination or racial hatred. This is the aim of those who genuinely want the Convention. There are, admittedly, certain qualifications in the introductory part of article IV, but we are most concerned that this Convention—as we have desired and urged from the outset—shall be as perfect as possible, avoiding provisions of any kind likely to lead to abuse or misinterpretation which it might be difficult to remedy. This is why we state quite unequivocally in our amendment that all incitement to racial discrimination, no matter what form it may take, shall be punishable by law. We have particularly added, in order to preserve the original idea of the text, the question of discrimination based on racial superiority or hatred, on which we are entirely in agreement. We consider that in this way article IV (a) is satisfactorily rounded off and the purposes of the Convention are duly fulfilled.

50. Finally, I should like to reply to the point raised by the representative of Ghana in order to set the record straight. Contrary to what he said, there has never, I repeat never, been any compromise with the members of the Latin American group nor with certain other delegations regarding the drafting of this article. A compromise requires action on the part of all the parties to the negotiations.

51. Mrs. CABRERA (Mexico) (translated from Spanish): The Mexican delegation regards the draft international Convention on the Elimination of All Forms of Racial Discrimination as a document of singular importance in the effort to put into practice the lofty principles set forth in the Declaration of Human Rights. For this reason, it bears in its train important innovations which must be examined in absolute freedom by the various Parliaments or Houses of Representatives which make it possible for the Governments of Member States to ratify the Convention.



52. The delegation of Mexico collaborated in an honest and unwavering manner with the majority of the members of the Third Committee to adopt a text which would receive unanimous support. Unanimity was achieved as a result of concessions on all sides based on mutual understanding and goodwill. To introduce amendments which, in one way or another, have already been rejected by the Third Committee would upset the balance achieved and force delegations to reconsider their position in the matter.

53. We believe that the Mexican legislature should be left absolutely free to consider the various implications of the Convention. Majority acceptance of an article such as that envisaged in document A/L.479 severely restricts this freedom and prejudices the action which the Mexican legislature may take.

54. For this reason, and despite the fact that in its domestic and international policies alike, the Mexican Government has championed in the past and will continue to champion the concept of racial non-discrimination, my delegation feels obliged to vote against this amendment; and if it is adopted, we shall have to abstain from voting on the draft Convention as a whole.

55. The PRESIDENT (translated from French): We shall now proceed to vote, beginning with the thirty-three-Power amendment [A/L.479] to part III of the annex to draft resolution A [A/6181, para. 212]. The amendment calls for the insertion of a new article 20 in the draft Convention. A separate vote has been requested on the second sentence of paragraph 2 of the article, which reads as follows:

"A reservation shall be considered incompatible or inhibitive if at least two thirds of the States parties to the Convention object to it."

I now put this sentence to the vote. A vote by roll-call has been requested.

*The vote was taken by roll-call.*

*Mali, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Mali, Mauritania, Mongolia, Morocco, Nepal, Nigeria, Pakistan, Philippines, Poland, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Sudan, Syria, Togo, Trinidad and Tobago, Tunisia, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Republic of Tanzania, Upper Volta, Uruguay, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Bulgaria, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Chad, Congo (Brazzaville), Cuba, Cyprus, Czechoslovakia, Dahomey, Ethiopia, Gabon, Ghana, Guinea, Hungary, India, Iran, Iraq, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Madagascar, Malawi.

*Against:* Mexico, Panama, Paraguay, Peru, Spain, United States of America, Venezuela, Argentina, Australia, Belgium, Bolivia, Colombia, Costa Rica, Dominican Republic, El Salvador, France, Guatemala, Honduras.

*Abstaining:* Netherlands, New Zealand, Norway, Portugal, Sweden, Thailand, Turkey, United Kingdom of Great Britain and Northern Ireland, Austria, Brazil, Burma, Canada, Ceylon, Chile, China, Congo (Democratic Republic of), Denmark, Finland, Greece, Haiti, Iceland, Ireland, Israel, Italy, Luxembourg, Malaysia, Maldives Islands.

*The sentence was adopted by 62 votes to 18, with 27 abstentions.*

56. The PRESIDENT (translated from French): I now put paragraph 2 to the vote.

*Paragraph 2 was adopted by 76 votes to 13, with 15 abstentions.*

57. I now put the amendment as a whole to the vote.

*The amendment as a whole was adopted by 82 votes to 4, with 21 abstentions.*

58. The PRESIDENT (translated from French): I invite the Assembly to vote on the five Power amendment [A/L.480] to part I of the annex to draft resolution A. It refers to article 4 (a) of the draft Convention.

*The amendment was rejected by 54 votes to 25, with 23 abstentions.*

59. The PRESIDENT (translated from French): I would remind representatives that the Fifth Committee has submitted a report [A/6182] on the financial implications of adoption of the draft Convention. The report refers in particular to part II of the annex to the draft resolution, i.e., part II of the draft Convention.

60. I now put to the vote draft resolution A, as amended. A roll-call vote has been requested.

*The vote was taken by roll-call.*

*The Philippines, having been drawn by lot by the President, was called upon to vote first.*

*In favour:* Philippines, Poland, Portugal, Romania, Rwanda, Saudi Arabia, Senegal, Sierra Leone, Somalia, Spain, Sudan, Sweden, Syria, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukrainian Soviet Socialist Republic, Union of Soviet Socialist Republics, United Arab Republic, United Kingdom of Great Britain and Northern Ireland, United Republic of Tanzania, United States of America, Upper Volta, Uruguay, Venezuela, Yemen, Yugoslavia, Zambia, Afghanistan, Algeria, Argentina, Australia, Austria, Belgium, Bolivia, Brazil, Bulgaria, Burma, Burundi, Byelorussian Soviet Socialist Republic, Cameroon, Canada, Ceylon, Chad, Chile, China, Colombia, Congo (Brazzaville), Congo (Democratic Republic of), Costa Rica, Cuba, Cyprus, Czechoslovakia, Dahomey, Denmark, Dominican Republic, El Salvador, Ethiopia, Finland, France, Gabon, Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, Iceland, India, Iran, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kuwait, Laos, Lebanon, Liberia, Libya, Luxembourg, Madagascar, Malaysia, Maldives Islands, Mali, Mauritania, Mongolia, Morocco, Nepal, Netherlands, New Zealand, Niger, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru.

*Against:* None.

*Abstaining:* Mexico.\*

*Draft resolution A, as amended, was adopted by 106 votes to none, with 1 abstention.*

61. The PRESIDENT (translated from French): I now put to the vote draft resolution B [A/6181, para. 212].

*Draft resolution B was adopted by 98 votes to none, with 7 abstentions.*

62. The PRESIDENT (translated from French): With regard to the resolution just adopted, I am informed that it will take some time to prepare copies of the Convention for signature. As soon as the copies are ready, the date for signature will be announced in the United Nations Journal. This will enable Governments wishing to sign the Convention to grant the appropriate full powers to their plenipotentiaries.

63. I shall now call on each of the representatives in turn who wish to explain their votes.

64. Mr. OSPINA (Colombia) (translated from Spanish): I asked permission to speak before the vote, and it seems to me that this raises a point of order, because one reason why I wanted to speak was to ask for a separate vote on certain sentences or phrases in article 4. With this in mind—and I hope that the Assembly will take due note of it—I shall say what I would have said prior to the voting.

65. The Third Committee approved the draft International Convention on the Elimination of All Forms of Racial Discrimination in a text which appears in document A/6181 of 18 December 1965. If this draft is adopted by a majority vote, it will go from the Assembly to the States which are parties to the Convention for ratification in accordance with the terms set forth in the Convention.

66. My delegation has worked with tremendous zeal in order to give this humanitarian draft such force that it could become an international covenant with which States Members of the United Nations would comply. To achieve this, it would have to be in keeping with the spirit and the letter of the universal principles of law as well as with the constitutional principles of Member States; and this has proved extremely difficult in spite of the fact that the sponsors in the Committee itself made concessions towards extending the bounds of international positive law and eliminating errors in the text.

67. Nevertheless, certain articles of the Convention still embody extremist clauses which are unacceptable because they are at variance with the political constitutions of particular countries, and this will mean that reservations will be made when the draft is voted upon and at the time of ratification once it is converted into a covenant.

68. As far as the political constitution of Colombia is concerned, the enshrinement of the liberties in it is based on the recognition of the rights of the human person, and these rights are safeguarded up to the point where the rights of others or the rights of the

community begin. However, if the law or international treaties attempt to restrict these freedoms in the interest of the community or of mankind, this can only extend to the point at which the principle of freedom remains intact—in other words, personal freedom can be regulated but not encroached upon.

69. The Colombian constitution is based on the principles of Rousseau, adjusted in the light of the advances made in the social field; and individualism has had to and still has to make concessions in the interests of the community, without stamping out the individual, without encroaching upon his freedom, respecting his right to think and to express his deliberate decisions in actions or words.

70. Freedom of thought has been violently curtailed by tyrants throughout the course of history, by the Inquisition and by those who in the name of royal powers opposed the independence of the Americas. These are facts which show clearly that to penalize ideas, whatever their nature, is to pave the way for tyranny, for the abuse of power; and even in the most favourable circumstances it will merely lead to a sorry situation where interpretation is left to judges and law officers. As far as we are concerned, as far as our democracy is concerned, ideas are fought with ideas and reasons; theories are refuted with arguments and not by resort to the scaffold, prison, exile, confiscation or fines.

71. For these reasons we ask for a separate vote on the phrase "based on ideas or theories" in the second line of the first paragraph of article 4, and "of ideas based on superiority or hatred" in the first line of article 4 (a). If these phrases are not rejected, my delegation would like to enter reservations on them here and now.

72. Moreover, we believe that penal law can never presume to impose penalties for subjective offences. This barbarous practice is merely the expression of fanaticism such as is found among uncivilized people and is hence proscribed by universal law. Here, therefore, is one voice that will not remain silent while the representatives of the most advanced nations in the world vote without seriously pondering on the dangers involved in authorizing penalties under criminal law for ideological offences. The interpretation of article 4 to which I referred not only stipulates punishment for individuals but for organizations as well. It is known that juridical persons, let alone juridical persons associated for political purposes, are not subject to penal sanctions or the passive object of criminal law. Article 4, in the terms in which it is drafted, is legally unsound, in addition to having the constitutional defects I have pointed out.

73. The Colombian Parliament will not authorize ratification of a covenant at variance with the political constitution of the country and with the tenets of public law. Colombia practises freedom of ideas and will not depart from the principles underlying its civilization.

74. My delegation is eager for this convention to be adopted. There are no racial problems in Colombia. There is crossing of blood; men are valued for their

\*The Mexican delegation subsequently informed the Secretariat that it would like Mexico to be included in the list of delegations voting in favour of draft resolution A.



virtues as citizens; coloured persons occupy and have always occupied the highest public offices side by side with whites; races live in harmony and merge without more ado, because it is a commonplace occurrence. There, in the crucible of Latin America, the blood and the races of the future meet and mingle; and since there is no discrimination of any kind in Colombia, my delegation felt that it could freely and frankly analyse article 4. And we find that in its present wording it is a retrograde measure instead of being a step forward on mankind's road towards the future.

75. In conclusion, may I—again in explanation of my vote—point out certain faults we have found with article 15 of the Convention. This provision establishes a special situation in respect of the territories referred to in General Assembly resolution 1514 (XV) of 14 December 1960. This exceptional treatment provided for in article 15 in regard to the right of petition, converting it into something resembling a new right which might be described as a right of direct petition since it does not involve intervention by the State concerned, the Committee being informed through the competent bodies of the United Nations, arouses misgivings on the part of my delegation precisely because of its exceptional nature.

76. At first sight it would seem that a political problem is being injected into the Convention, whereas my delegation is conscious of the fact that the aim of the Convention is eminently humanitarian. Thus problems are created in the United Nations itself, issues being transferred from one committee to another without any apparent authorization to do so. Administering Powers might feel that there was some derogation from their sovereignty and that they are exposed to the danger of violation for want of clarity in the rules applied.

77. My delegation believes that since the colonial status of certain Territories constitutes a temporary legal situation, this provision too should be temporary and not permanent. My delegation will abstain from the voting on this article, with the exception of paragraph 1, for which we intend to vote.

78. I shall not refer to the amendment to article 20 [A/L.479], since I am entirely in agreement with the views expressed by the representatives of Argentina and Mexico. A few days ago the United States representative, speaking in the Third Committee [1373rd meeting], said that this Convention was more than a mere restatement of laudable principles. That is true: the Convention is a resounding victory, which must not be demeaned by political issues.

79. Mr. VERRET (Haiti) (translated from French): The delegation of Haiti, in spite of the reservations it expressed in the Third Committee concerning certain paragraphs of the various articles of the draft International Convention on the Elimination of All Forms of Racial Discrimination, voted for the draft Convention as a whole, even though it still has some misgivings concerning the full effectiveness of the measures of implementation. It also approved the report of the Third Committee on this subject as an absolute imperative of the present time, when

human passions are revealed as more deadly than the most modern weapons.

80. Now, heaven be praised, we have produced a document of which the least that can be said is that it is reasonably reassuring. We applaud it, and we join in the chorus of authoritative voices of the nations assembled in this Hall to intone in all solemnity the hymn of reconciliation among the races which fantastic theories tend to divide, vaunting the supremacy of some peoples over others regarded as inferior and hence despised and held in servitude, if not indeed destined for utter annihilation. That was the judgement of Gobineau and his disciples with their theory of the inequality of human races; of the German philosopher Nietzsche, the champion of force, in his famous book Thus Spake Zarathustra; and a whole series of sorcerers' apprentices who came after them. They ignored the fact that in the beginning, when men dwelt in caves, no matter where they were such ideas had not yet occurred to them, and they formed groups and mingled together all on the same footing in their fierce struggle against the wild beasts and the elements they had not yet subdued.

81. We have no desire to dwell on the controversial writings of specialists in anthropology or genetics. We in the Republic of Haiti, ever since the days when our African ancestors freed themselves from the diabolical colonial yoke, have always practised tolerance towards all races, in accordance with our laws and customs, in spite of the tortures of every kind inflicted on our forefathers and the ostracism suffered by our country because of our ethnic origins. We have practised tolerance in the belief that all races are on a par and that the barriers set up between them have been erected through the ages merely as a sequel to struggle and conquest, where the victorious side subjugated the other and regarded the race of the vanquished as inferior to its own. That was the way with the civilizations that have died out, and it is the same with the new civilizations.

82. There is no need to cite the ancient empires, whose doleful fate the history books recount, except to recall that the instinct to dominate has ever been one of the characteristics of the human species, and that men today, in spite of the new gospels preached by the wise men of every part of the world, still confront each other in antagonistic ideologies whose baleful shadows cast gloom over the places where they fall. History is like the sea, ever beginning anew, and men have not changed over the ages. Confronted with its prey, the beast shows its claws.

83. Thus, to safeguard the higher interests of an epoch, the colonial Powers regarded Haiti as fair game throughout the last century, following the proclamation of its independence, because for them it set a dangerous example.

84. Libelled by racist writers and theorists who claimed that in Haiti's first steps as a sovereign nation they detected a congenital inferiority inherent in the black race; isolated by the Powers which made no move to recognize it; and excluded, only recently still, from international gatherings, Haiti neverthe-

less fulfilled its destiny. This island, the home of a free people, proud of its origins, pursuing its onward and upward march, slowly but surely, despite the obstacles of every kind deliberately placed in its path, towards progress and modern civilization, in peace and dignity at all times, under the enlightened leadership of a just and learned Chief of State, H.E. Dr. François Duvalier, Life President of the Republic. And because though our forefathers were oppressed we still believe in a better future, we share the distaste felt by the majority of the peoples of the world for all forms of racial discrimination, no matter by what means they are called: anti-semitism, colonialism, nazism, apartheid and all such, past and present. They are all of them as degrading as the minds that conceived them.

85. It is most gratifying that after centuries during which the war-lords have caused the destruction of so much life and property, the nations represented here have approved this international Convention on the Elimination of All Forms of Racial Discrimination, for the purpose of promoting greater understanding among peoples and building a new world where, in an atmosphere of more brotherly, more just and more human feelings, the smoke from the pipe of peace will bring with it progress and happiness to nations sincerely reunited.

86. The peoples of the world will be grateful to us Member States if we are able to respect this Convention. Let us at least wish it long life, so that the peace so dear to the hearts of men may reign on earth.

87. In conclusion, the delegation of Haiti pays homage to the members of the Third Committee and the General Assembly for this meritorious effort, which represents a new landmark on the path to social progress.

88. Mr. LAMPTEY (Ghana): A generation ago, a young African student landed on the shores of these United States in pursuit of higher learning. He slept on the subways of New York City and rubbed shoulders with the workers in the shipyards of Pennsylvania. Alone in a strange country, he came face to face with racial discrimination.

89. A decade later he left for the United Kingdom, and there again, in the lower-class restaurants of Camden Town and Tottenham Court Road in London, he was to experience the subtlety of racial discrimination.

90. He did not become a bitter man in consequence of those experiences: he became a better man. For he became convinced that if an honest and enduring relationship between men of different races and ethnic origins must come, it must be preceded by the elimination of all forms of racial discrimination.

91. Osagyefo Kwame Nkrumah, the man of whom I speak, has with determination and consistency employed the influence and power that destiny has bestowed upon him to ensure the total eradication of this cancerous tumour from the face of the earth. It is for this reason that he can never, and his people will never, consider the struggle of the Americans of African descent for equality as an

isolated struggle peculiar to them; nor can he and his people remain immune from the privations suffered by millions of black men in the southern part of Africa.

92. It is in the name of this leader, and the nation of which he is the architect, that my delegation has been proud to vote for the adoption of this International Convention on the Elimination of All Forms of Racial Discrimination.

93. In explaining our vote, let us state that we are not completely satisfied with the Convention just adopted, for we would have hoped that, seven centuries after the Magna Carta declared "...to no one will we refuse or delay right or justice"; more than a century and a half after the American Declaration of Independence asserted that "all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness"; 172 years after the French Declaration of the Rights of Man and Citizen proclaimed that "forgetfulness and contempt of the natural rights of men are the sole causes of the miseries of the world"; almost half a century after Lenin proclaimed the brotherhood of man; twenty years after the great Charter of the United Nations reaffirmed "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women...", and seventeen years after we, through the Universal Declaration of Human Rights, declared that "all are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination", the representatives of Governments here gathered would have adopted a strong Convention able to insure the speedy disappearance of racial discrimination, that dogma and practice which is a travesty of the very essence of justice. But, alas, realism dictated that we take an infant step. Let me therefore register the hope of my Government and people that the Convention just adopted will, in a few years, be subject to revision, and a more effective instrument adopted.

94. "...That the great and terrible war which has now ended was a war made possible by the denial of the democratic principles of the dignity, equality and mutual respect of men, and by the propagation, in their place, through ignorance and prejudice, of the doctrine of the inequality of men and races." These are the words of the preamble to the Constitution of UNESCO. It was Santayana who remarked that he who does not know the past is doomed to repeat it. In taking this first step in providing the nations of the world with a multilateral treaty for the elimination of all forms of racial discrimination, a treaty capable of enforcement, we have demonstrated our capacity not to forget. Let us then hope that the nations of the world will demonstrate their commitment to this purpose by faithfully adopting and executing the principles enshrined in this Convention. Then the day may yet come when it can truly be said, as it was said by Confucius twenty-five centuries ago, that: "Within the Four Seas all are Brothers."

95. My delegation has been proud and honoured to participate in the drafting and adoption of this Convention, and we thank those who joined us in this collective task. If in the process we have seemed impatient, we beg forgiveness, for we meant no offence to anybody—but we were dedicated to the conclusion of this task.

96. We leave this rostrum convinced that, because of what you have done today; when the story of the twentieth session of the General Assembly comes to be told, it can well be said, as it was once said by a great war leader: This was its finest hour.

97. Miss WILLIS (United States of America): It is a source of deep satisfaction to the United States delegation that the Committee, under the skilful and patient leadership of its able Chairman, successfully persisted in the arduous task of drafting the International Convention on the Elimination of All Forms of Racial Discrimination. The adoption of this Convention will certainly be one of the main achievements of this session. All delegations which worked hard to achieve this result are to be congratulated.

98. The United States voted for the Convention as a whole because we agree with its constructive humanitarian objectives. It is more than a statement of lofty ideals. It provides machinery for implementation which goes well beyond any previous human rights instrument negotiated in the United Nations. It is inevitably a complex document and will require careful study not only by my Government but also, I am sure, by many other Governments.

99. It is not appropriate here to recapitulate even the substance of statements made by the United States representative in the Third Committee on various articles. For the record, however, here in this Assembly, I wish to state that the United States understands article 4 of the Convention as imposing no obligation on any party to take measures which are not fully consistent with its constitutional guarantees of freedom, including freedom of speech and association. This interpretation is entirely consistent with the opening paragraph of article 4 of the Convention itself, which provides that, in carrying out certain obligations of the Convention, States Parties shall have "due regard to the principles embodied in the Universal Declaration of Human Rights and the rights expressly set forth in article 5 of this Convention". Article 5, in turn, lists, among the rights to be guaranteed without distinction as to race, colour, or national or ethnic origin, the right to freedom of opinion and expression.

100. Let me now turn very briefly to the question of the reservations article. My delegation believes that it would have been better for this Convention not to contain an article on reservations. The absence of such an article need not have impaired the effectiveness of the Convention. The omission of an article on reservations would, however, have made possible the acceptance of the Convention by a greater number of States, thereby contributing to the eradication of racial discrimination over a wider area.

101. We think it would have been preferable in this Convention, if there had to be an article on reser-

vations, for it to provide for a judicial decision on the question of whether a reservation made by a State was or was not compatible with the object and purpose of the Convention.

102. What I have said explains why we abstained from voting on the article contained in document A/L.479. Notwithstanding our difficulties with some aspects of the text, we welcome the adoption of this Convention by the General Assembly. We hope that it will help in bringing to an end the evils of racial discrimination, for racial discrimination has no place in the world we, the peoples of the United Nations, are seeking to build.

103. Mr. COMBAL (France) (translated from French): The French delegation would have liked to be able to rejoice unreservedly in the adoption by the General Assembly of a draft international Convention on the Elimination of All Forms of Racial Discrimination. For that reason we regret that we felt obliged this morning to oppose the adoption of the amendment [A/L.479] to insert a new article 20 in the text of the draft Convention.

104. While paragraph 3 of this document merely reiterates generally recognized international principles, paragraphs 1 and 2 introduce new ideas which my delegation cannot endorse.

105. In the first place, paragraph 1, because of ambiguous or perhaps merely inept drafting, would be likely to extend beyond the sphere of the States parties to the Convention the procedure for examining reservations and make it possible for States that are not and never will be parties to the Convention to be seized of reservations submitted by others which had decided to accede to the Convention.

106. The French delegation likewise felt obliged to vote against paragraph 2. The admissibility of ratifications or accessions subject to reservations should be decided upon normally by each Contracting State on the basis of legal considerations; but the procedure envisaged—the submission of such decisions for approval by a two-thirds majority of the Contracting States—does not respect that rule; it introduces into the draft Convention not only a principle foreign to the spirit of a contractual instrument, but also an element of a political nature calculated to distort the purpose and scope of the instrument.

107. The French delegation was nevertheless able to vote in favour of the draft international Convention as a whole. To be sure, several of its provisions, in addition to the new article 20 just added by the General Assembly, evoked criticism and reservations. Moreover, there are still too many places where the text transmitted by the Third Committee has shortcomings attributable to the *ad hoc* nature of the wording used and the undue haste with which the Committee frequently had to take decisions. However, the lofty moral and humanitarian aims of this instrument, combined with the need to provide the international community with a text, even though an imperfect one, which should at any rate help it to remove this blot on human society—racial discrimination—seemed to my delegation reasons enough for waiving our difficulties and joining with



those who have supported the Convention on the Elimination of All Forms of Racial Discrimination.

108. Mr. BOSCO (Italy) (translated from French): The Italian delegation has given its enthusiastic approval to the draft International Convention on the Elimination of All Forms of Racial Discrimination, which was discussed at great length by the Third Committee and carefully drawn up by eminent jurists.

109. We are convinced that today's date will constitute a landmark in the history of the United Nations. The document submitted to us for approval is not merely the outcome of heavy labours and close co-operation within the Organization; it is first and foremost a solemn affirmation of the will of the peoples of those nations to do away once and for all with abominable doctrines and practices which for too many centuries, and until the present day, have been the cause of suffering and manifold distress. No one can fail to remember the millions of victims that racial hatred and anti-semitism have made in our generation. No one can fail to be conscience-stricken and revolted by the policy of racial segregation which, alas, is still rife today. It is hardly necessary to recall here how many times the voice of the United Nations has been raised, affirming that all forms of racial discrimination are an offence to the dignity of the human person and that therefore they cannot be justified de jure, let alone tolerated de facto in any shape or form.

110. The Universal Declaration of Human Rights has pointed the way for us. The draft Convention just adopted is the means, the tool forged by the United Nations for attaining the ends of the Declaration. It is now for our countries, our Parliaments and Governments, to become parties to the Convention and adopt the measures they deem most appropriate for implementing it.

111. In conclusion, I am happy to declare here on behalf of my delegation that the affirmative vote we have cast is the solemn expression of our full moral support for the principles and obligations of this Convention, which the law and policies of the Italian Republic has always supported.

112. Mr. MOROZOV (Union of Soviet Socialist Republics) (translated from Russian): The Soviet delegation voted in favour of the adoption of the Convention on the Elimination of all Forms of Discrimination. We believe that the Convention just adopted will be warmly welcomed by world public opinion and that its adoption will be regarded by all progressive people as an event of great international importance.

113. Racism and racial discrimination are such shameful and odious products of imperialism and colonialism that all peoples and all decent human beings are resolutely demanding that they be ended.

114. Even now the policy of racism and racial discrimination is still causing millions of people mental and physical suffering and constituting a source of hostility and conflict not only in relations between individuals and peoples but also between States, thereby creating an immediate threat to international peace and security.

115. We all know—and there is no need to dwell on the subject at this time—that there is abundant and irrefutable evidence that racist ideas and policies still prevail in a number of countries in the fields of administration, the economy, education, public health, social security, family relations and the like.

116. Hence the adoption of the Convention on the Elimination of All Forms of Racial Discrimination is a logical development of the historic United Nations Declaration on the Granting of Independence to Colonial Countries and Peoples, and of the Declaration on the Elimination of All Forms of Racial Discrimination, adopted earlier by the General Assembly [1904 (XVIII)].

117. Today, at its twentieth session, and on the twentieth anniversary of the founding of the United Nations, the General Assembly has added a memorable page to the annals of the Organization.

118. The delegation of the Soviet Union, representing the peoples of the Soviet State, who feel the deepest sympathy and understanding for peoples who have to endure apartheid, segregation and other manifestations of racism, has made every effort to help to formulate a meaningful convention on the elimination of all forms of racial discrimination. The drafting of the Convention revealed that, despite the fact that racism has been branded as a most grievous crime against mankind, and despite the adoption of a special declaration resolutely condemning racism and all forms of racial discrimination, there is still a tendency on the part of certain States to hinder the implementation of these United Nations decisions, to emasculate them, to interpret these documents in such a way as to reduce to nothing or belittle their practical significance. Interpretations of this kind have been put forward in the Third Committee also and reflected in the statements of some speakers at the present session of the General Assembly. It is also a regrettable fact that they are advanced precisely by delegations of countries which, like the United States for example, have so far obstinately refused to ratify agreements and conventions previously prepared by the United Nations and designed to promote the fulfilment of one of the tasks laid down in the United Nations Charter—the task of promoting universal respect for human rights and fundamental freedoms without distinction as to race, sex, language or religion.

119. It should also be pointed out that there are various other conventions, adopted earlier by the United Nations, which are still awaiting the signature of the countries whose delegations have spoken in the Third Committee, at this session of the General Assembly, also, of restricting in one way or another the Convention which we have just adopted. Suffice it to mention such instruments as the Convention against Discrimination in Education <sup>12/</sup> and even such an important convention as the Convention on the Prevention and Punishment of the Crime of Genocide. <sup>13/</sup>

<sup>12/</sup> Convention against Discrimination in Education, adopted by the General Conference of UNESCO at its eleventh session (Paris, 14 December 1960).

<sup>13/</sup> Convention of 9 December 1948 on the Prevention and Punishment of the Crime of Genocide (General Assembly resolution 260 (III), annex).

120. As regards the Soviet people, we are convinced that the General Assembly's decision to adopt the Convention will be fully appreciated by all the peoples of our multinational State.

121. In 1917 the Soviet people were the first in the history of mankind to put an end to discrimination and all other manifestations of the imperialist system of exploitation. More than 110 nationalities, drawn together by bonds of indissoluble friendship, go to make up the 230-million-strong people of the Soviet Union. To our people all questions connected with the elimination of racism and other forms of discrimination are a thing of the past—they are history. Soviet law strictly prohibits all forms of racial discrimination. We need only recall that the Constitution of the Soviet Union, as well as the Constitutions of all fifteen Union Republics and of all thirty Soviet Autonomous Republics, clearly establish the equality of all citizens, regardless of their race or national origin, in all fields—economic, political and social—as an immutable law. Any direct or indirect limitation of rights whatsoever or, conversely, the establishment of any direct or indirect privileges for citizens on account of their race or national origin, is punishable by law, as is any advocacy of racial or national exclusiveness or hatred and contempt.

122. We should like, in conclusion, to emphasize that it is the duty of the United Nations to ensure that the provisions of the Convention are implemented in the very near future and are strictly observed everywhere.

123. Lady GAITSKELL (United Kingdom): We did, of course, vote in favour of the Convention as a whole because we strongly support the general objectives and purposes of that Convention. We also voted for article 20 as a whole because, as the representative of Ghana pointed out, we have already on previous occasions made clear our opposition in principle to the placing of reservations on articles of implementation. We were glad to see that some of our colleagues shared this view.

124. We still, however, maintain our objections to article 15. These objections were explained in detail in Committee and there is no need for me to repeat them. Nothing has been said to refute them. The Ghanaian representative's arguments seem to turn on the assertion that the right to petition has already been granted by the Charter. This is, of course, not the case except to inhabitants of Trust Territories.

125. I shall confine myself to reiterating the general criticism of article 15 already expressed in the Third Committee by an able and distinguished colleague: it represents bad politics and worse law.

126. Mrs. MANTZOULINOS (Greece): My delegation voted for the deletion of the reservations clause when the vote was taken in the Third Committee [1368th meeting] because, in view of the amendments proposed to the draft, we thought that deletion was a better solution, taking into consideration the fact that a number of United Nations and specialized agencies conventions had not included a reservations clause. The reservations formula would permit any reservation by any State party to the Con-

vention or to any article of the Convention and, according to United Nations procedure, communication through the Secretary-General of such reservations to all States parties to the Convention, for their acceptance or disagreement.

127. In the absence of a reservations clause in a given convention, under United Nations practices and in conformity with the principles of international law no reservation could be entered into by a State if it were incompatible with the object and purposes of the convention.

128. The amendment submitted to the Assembly today [A/L.479], interpreting these principles of international law, seemed acceptable to my delegation and we voted in favour of it.

129. However, the last phrase of paragraph 2, providing that it is up to the States parties to decide, by a two-thirds majority, what is incompatible or inhibitive with regard to the object of reservations, seemed to us not a familiar clause in the proceedings of international conventions. We would have preferred to have this matter decided upon by a juridical body, rather, such as the Legal Section of the United Nations Secretariat, which would accordingly give its competent opinion on reservations entered into by States at a time of ratification or accession. This stage was provided for by the Convention.

130. Under the circumstances, however, we abstained on the last phrase of paragraph 2, but voted in favour of paragraph 2 as adopted, with the retention of its last phrase.

131. In explaining its vote in favour of resolutions A and B respectively preceding and following the text of the Convention [A/6181, para. 212] the delegation of Greece whole-heartedly welcomes the adoption of the Convention by the General Assembly. Despite some imperfections in the text, my delegation considers it an outstanding United Nations instrument, an achievement in international life. We are confident that it will effectively meet its purposes and objectives; namely, to combat racial discrimination in all its forms, and thus serve the great cause of human rights and human dignity.

132. Mr. BAROODY (Saudi Arabia): Racial discrimination should have been an anachronism a long time ago. Unfortunately, there are still certain countries and societies which practice racial discrimination, despite the fact that their national Constitutions forbid it. It is our fervent hope that the Convention we have just approved will reaffirm the right of all peoples, regardless of the colour of their skin.

133. I am happy to note that reservations have no place in such a Convention. We trust that it will not be too long before all the vestiges of racial discrimination will have disappeared from the face of this earth. The Convention has reaffirmed the fact that the United Nations, in its totality, believes that we all belong to the same human family.

134. Finally, it is indeed auspicious that the Convention has been adopted during the session which has been presided over by a scholarly, gentle and noble son of Italy—Italy, which has played a historic role in humanism, in art and in culture.

135. The PRESIDENT (translated from French): I call on the Secretary-General.

136. The SECRETARY-GENERAL: It is with great pleasure that I welcome the adoption by the General Assembly, at this twentieth session, of the International Convention on the Elimination of All Forms of Racial Discrimination.

137. I am convinced that the Convention will constitute a most valuable instrument by which the United Nations may carry forward its efforts to eradicate the vestiges of racial discrimination wherever they may persist throughout the world.

138. In the Charter, the peoples of the United Nations proclaimed their determination to reaffirm faith in fundamental human rights and in the dignity and worth of the human person. The Convention which the General Assembly has just adopted represents a significant step towards the achievement of that goal. Not only does it call for an end to racial discrimination in all its forms; it goes on to the next, and very necessary, step of establishing the international machinery which is essential to achieve that aim.

139. Since the Universal Declaration of Human Rights was adopted and proclaimed on 10 December 1948, the world has anxiously awaited the completion of other parts of what was then envisaged as an International Bill of Human Rights, consisting of the Declaration, one or more international conventions, and measures of implementation. That is why the adoption of this Convention, with its measures of implementation set out in part II, represents a most significant step towards the realization of one of the Organization's long-term goals.

140. I am most happy that this step has been taken at this time, at the culmination of the observance of the International Co-operation Year, and I am gratified that the Convention has been adopted by so decisive a vote.

141. I note that the Secretary-General has been assigned an important role in providing the Secretariat and otherwise assisting the Committee on the Elimination of Racial Discrimination which will be established when the Convention comes into effect, and the Conciliation Commission which will be appointed as required. For my part, I am pleased to say that I accept these obligations.

142. The preparation of the Convention was a co-operative effort in which many organs of the United Nations participated, including the Sub-Commission on Prevention of Discrimination and Protection of Minorities, the Commission on Human Rights, and the Economic and Social Council, and this General Assembly. In particular, it was the great initiative and drive displayed by the Third Committee which gave the Convention its full form and substance. I should like to commend them for this achievement, which is in keeping with the high hopes and expectations of the peoples of the world.

143. It is now the duty of all of us to see to it that the Convention comes into effect as soon as possible and that its terms are carried out precisely and in a spirit of mutual respect and understanding between peoples and nations, in accordance with the great humanitarian objectives of the Charter and the principles laid down in the Universal Declaration of Human Rights.

144. The PRESIDENT (translated from French): I thank the Secretary-General for his statement. Ten days or so ago, in this same Assembly Hall, we celebrated the anniversary of the Universal Declaration of Human Rights. It is a great pleasure for me, as your President, to say that there is no better way of celebrating the anniversary of the Universal Declaration than by the vote we have cast this morning at the twentieth session.

*The meeting rose at 1.40 p.m.*