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Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (continued) 135

Chairman: Mr. Abdullah EL-ERIAN
(United Arab Republic).

AGENDA ITEM 89

Technical assistance to promote the teaching, study, dissemination and wider appreciation of international law: report of the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (continued) (A/5455 and Add.1-6, A/5744 and Add.1-4, A/5790, A/5791, A/5803, chap. VII, sect. III, para. 346; A/5887; A/C.6/L.565)

1. Mr. MATEEN (Pakistan), emphasizing the importance of the teaching, study, dissemination and wider appreciation of international law, said that, in his delegation's opinion, any efforts along those lines could be regarded as efforts to strengthen the very basis of the United Nations. The United Nations had no instrument of enforcement at its command. It survived on faith, mutual confidence and understanding alone. Hence, to expand and deepen that understanding meant strengthening the "rule of law" in international relations. Any effort to promote the understanding of international law would contribute directly to preserving the foundations of a just international order. The scope of international law was constantly widening, and it must therefore be given a place in the law curricula of every country.

2. His delegation had noted the view of the Technical Assistance Board (TAB) that the teaching of international law was not closely enough related to such priority fields as economic and social development to be brought within the sphere of the Expanded Programme of Technical Assistance. He would not discuss that view, although it might seem arguable, but would merely state that his delegation was in whole-hearted agreement with TAB's other conclusion that funds could be made available from the Expanded Programme for certain projects which fell within its concept of development. In any case, his delegation felt that such an important programme should not be given up merely because of a lack of funds, and, while

appeals should be made to the generosity of voluntary contributors, the effort to obtain United Nations financial assistance should continue.

3. While the development of natural resources was a vital task, his delegation believed that the preservation of peace should have priority. Unfortunately, international machinery for settling disputes was not yet sufficiently effective, so that the intransigence of a single State in refusing to submit to generally accepted procedures for the settlement of international disputes sometimes threatened the peace and security of an entire region. The result was a wasteful diversion of resources from constructive activities to activities which, though necessary for survival, were unproductive; thus, not only was the development of economic projects halted but a regression occurred. That situation emphasized the need to evolve procedures and machinery which would make it impossible for a State to act unilaterally to arrest the dynamism of peace, social justice and development. A theoretical study of such machinery was surely the first step towards bringing the field of international relations once again under the rule of law. His delegation hoped that other delegations would recognize the importance of giving priority to certain matters in the teaching and dissemination of international law.

4. His delegation proposed that a concerted effort should be made to ensure that some of the seminars organized under the auspices of the United Nations and the United Nations Educational, Scientific and Cultural Organization (UNESCO) were devoted to the question of creating a minimum of public order at the international level. The role of international law in conflicts between States could be the subject of a series of seminars. Pakistan had good reason to be aware of the necessity of making positive, sustained efforts to resolve situations of conflict instead of letting them linger on unsettled. It had learned to its cost that the machinery for settling international disputes was based on expediency rather than justice and that there were grave defects in the very structure of United Nations peace-keeping organs, which were occasionally able to put out a blaze but could not remove the causes of the conflagration. Pakistan had unfortunately come to realize that the "peace-keeping" of which those organs were capable consisted mainly in dictating to the weaker States the terms of the stronger, regardless of how untenable that position might be from the standpoint of law or of international justice and morality. Violence, chauvinism, intransigence and violations of commitments appeared to be rewarded, while there was a disinclination to examine how a status quo had come about or to interfere with it even if it was obviously iniquitous. Such a state of affairs was inherently unstable. Violence should be halted at

the very outset, and no one should be permitted to harvest the fruits of his own violence. There was nothing controversial about the field of research and study in international law, and no one could deny its vital relevance to current problems. If international law was to be taught in a meaningful way, it would be difficult to find a more relevant focus for it. He wished to say, in that connexion, that his Government favoured the idea of holding a special seminar for teachers of international law with a view to improving their teaching methods.

5. His delegation fully supported the various measures recommended in General Assembly resolution 1968 C (XVIII), particularly with regard to the exchange of experts and scholars and of publications; the role proposed for UNESCO and the United Nations as the organs for collecting and distributing information on experts in international law would supplement the existing system of bilateral agreements and, for the time being at least, obviate the necessity of creating additional machinery. It was, however, essential to encourage scholars, particularly from the developing countries, to produce textbooks on international law oriented towards the future. No one wished to promote the international law which had been created in response to the needs of certain colonial Powers and for the purpose of maintaining their privileged position. Hence, close attention must be given to the type of international law whose teaching was to be encouraged. The international law which was to be disseminated must first of all be purified of its dross and its anachronistic elements, and that task could be carried out only by scholars from the developing countries. His delegation therefore proposed that maximum priority should be given to the creation of a fund to encourage and support the writing, publication and distribution of textbooks on international law. It regarded as highly useful the United Arab Republic representative's suggestion concerning the translation of such works. It also felt that the United Nations Institute for Training and Research would have an important part to play as a creative force and as a source of new ideas, for the international law which must be taught or disseminated was not merely a collection of facts or cases but a certain conception of the forms and methods of international relations which would enable the world to enjoy the benefits of a more perfect and more just order.

6. Mr. YANKOV (Bulgaria) said that contemporary international society, which was characterized by an intensity and diversity of social phenomena and by the interdependence of activities undertaken by States, was more than ever in need of a confirmation of generally recognized norms and principles if it was to function in the interests of mankind. In a world filled with tensions and potential conflict, legality should reign supreme. Violations of the principles of international law were always to be found at the roots of international conflicts and situations which threatened peace and international co-operation. The settlement of those conflicts by peaceful means brought to the fore the role of the bilateral and multilateral machinery which could be provided by international law. On the other hand, the advance of science and the development of international exchanges in all fields of human activity called increasingly for a more stable

system of legal regulation, which could be created by carrying out the norms of international law. The complaint was often heard that the international community was not organized and that improvised and frequently unjust decisions were taken in it. That was, of course, always the case when the law of force replaced the force of law and when arbitrariness as a tool of selfish interests and aims replaced international legality.

7. His delegation associated itself with the conclusions in the report of the Special Committee on Technical Assistance to Promote the Teaching, Study, Dissemination and Wider Appreciation of International Law (A/5887) and with the statements of various delegations which viewed the teaching and dissemination of international law as activities which were essentially educational but also served urgent needs in international practice. The ultimate objective should be to promote the establishment of international legality and the enforcement of law in international relations.

8. The dissemination of international law should be based on strict observance of the principle of universality and on respect for different legal systems and schools of thought, without discrimination of any kind. Doctrinal differences should in no case serve as a pretext or excuse for giving preference to certain legal systems and disregarding others. On the contrary, the teaching and dissemination of international law should aim at encouraging mutual understanding and respect among peoples. All concepts and institutions of international law should be placed on an equal footing, whether they belonged to capitalist, socialist, newly liberated or developing countries.

9. Furthermore, training methods and the relevant publications should be made as widely available as possible, without discrimination. In that connexion, his delegation formally proposed that Russian should be added to the languages suggested in paragraph 91 of the Special Committee's report, not only because it was one of the official languages of the United Nations, but also because it was the most widespread language of the great Slavic civilization and the publication of the documents in Russian would ensure their wide distribution.

10. All activities undertaken in connexion with the teaching and dissemination of international law should have a definite practical purpose and should serve the needs of the international community. With that in mind, his delegation wished to make some comments on the proposed activities in the field of training and research. It felt that the lecture programme given in paragraph 42 of the Special Committee's report, perhaps placed too much stress on the question of the peaceful settlement of international disputes, whereas certain no less vitally important subjects were not included. As topics which could be selected for that programme, for international seminars (paragraph 56) or for training and refresher courses (paragraph 68) he would suggest the following: legal problems connected with the development of national independence movements and the decolonization process (for example, legal aspects of the fundamental right of peoples to self-determination and national independence; problems of succession and the legal

implications of the attainment of independence by former colonies; rights and obligations of new States with regard to treaties previously concluded by the administering Power; legal means of protecting the sovereignty of States over their national wealth and natural resources), legal aspects of the use and exploration of international rivers for purposes other than navigation (irrigation, hydroelectric and industrial exploration), principles and legal techniques for international co-operation in the economic, technical, social, humanitarian and cultural fields (international trade; international financial transactions; international transport and communications; legal aspects of technical co-operation and technical assistance), international institutions (legal capacity, international status, treaty practice and operational activities), national jurisdiction (the United Nations Charter and the principle of non-intervention).

11. The members of the Committee had often stressed the need for more effective co-ordination of the activities of the United Nations, the specialized agencies and other bodies in the field of technical assistance relating to international law. His delegation recognized that improved co-ordination would make it possible to avoid duplication and to make more rational use of available facilities and resources.

12. His delegation felt that the financial difficulties involved in implementing the proposed programme should be resolved by means of voluntary contributions, and the use of funds which could be obtained through the Expanded Programme of Technical Assistance as well as making more rational use of the services of existing institutions and bodies. Given the financial position of the United Nations and of other inter-governmental and non-governmental institutions, the necessary funds should not be taken from resources earmarked for projects which could have direct and immediate economic and social effects in the underdeveloped countries. While he did not wish to underestimate the importance of international law, it was essential to give priority to financial assistance in connexion with technology, industrialization, agriculture and the feeding of peoples which lived in poverty.

13. Although he recognized the need for a thorough study of all aspects of the proposed projects, it should not be forgotten that the United Nations was an inter-governmental institution which was dependent on its Member States for its means of taking action. In view of the present situation, projects in the field of international law should start on a modest scale. It was essential to avoid rash action and, above all, undue haste in establishing new institutions. The extent to which use had been made of the opportunities afforded by existing institutions should be investigated.

14. Subject to those considerations, his Government was prepared to participate in accordance with its means, directly or through bilateral agreements and within the framework of the United Nations and UNESCO, in the implementation of a realistic programme for the study, dissemination and appreciation of international law. He wished to inform the Committee that an institute for post-graduate studies in international law had recently been established at the University of Sofia for Bulgarian post-graduate students and civil servants. Students from the

developing countries, who would be granted scholarships, would also be admitted.

15. Mr. MARTINEZ CARO (Spain) said he was glad to see that the debate was realistic and constructive. He was convinced that since peace was the outcome of justice, an international order based on peace and security could never be established unless relations between States were governed by a scrupulous, spontaneous and so to speak intuitive respect for the rules of international law.

16. The codification of those rules by the International Law Commission was of course essential, but it was clear that parallel action must be undertaken in the field of the teaching and dissemination of international law. The Spanish delegation was keenly interested in such activities, not only by juridical tradition, but also because it was conscious of their importance for the contemporary world and for the future. The United Nations must continue the work begun by Francisco de Vitoria.

17. Spain's efforts in the field under consideration would be described in the note to be addressed shortly to the Secretary-General, in reply to his questionnaire, specifying the number of fellowships and institutions which Spain placed at the disposal of foreigners wishing to improve their knowledge of international law. He would therefore confine himself to mentioning the facilities offered by the Francisco de Vitoria Institute, the School of Diplomacy and the School for International Civil Servants, all of them at Madrid. The Francisco de Vitoria Institute was a research centre which came under the jurisdiction of the Higher Council for Scientific Research and was open to specialists. The School of Diplomacy, which came under the Ministry for Foreign Affairs and gave courses in conjunction with those of the University, provided two years' theoretical and practical instruction at the post-graduate level. Each year it admitted an equal number of Spanish and foreign students, principally Arab and Latin American. The School for International Civil Servants which, since its establishment in 1955 had had the status of a non-governmental organization, was subsidized by the Spanish Government which would like to see more teachers and students from States Members of the United Nations take part in the school's activities.

18. Since Spain thus desired to encourage the teaching and dissemination of international law, he approved all in all the conclusions of the Special Committee's report (A/5887). He felt, however, that any technical assistance programme established as a result of the present discussion should cover both donor and recipient countries. It was, of course, possible that it might sometimes be necessary to take into account the particularly urgent needs of certain countries; but technical assistance, as conceived by the United Nations, was a joint international undertaking, and Spain could therefore not support action that did not provide for a just sharing of available resources and a satisfactory alternation of recipients. It was also essential, as the Special Committee had recognized, to ensure the co-ordination of existing facilities.

19. The Spanish delegation approved the idea of a technical assistance programme in regard to the

teaching of international law, to be carried out directly by the United Nations. Voluntary contributions that might be offered for that programme would be welcome, but at least part of the necessary funds should be derived from the regular budget of the United Nations, for reasons of principle, in order to preserve the international character of the programme.

20. Finally, the establishment of an advisory committee would be the most appropriate method of ensuring the attainment of the objectives which had been defined. Such a committee, which would be established by the General Assembly but would come under the direct jurisdiction of the Sixth Committee, would ensure the satisfactory implementation of the approved programme, prepare projects for inclusion in the programme of future work, report on action undertaken by countries and institutions, and serve as a co-ordination centre.

21. Mr. TERRAZAS (Bolivia) paid a tribute to the Special Committee for putting forward a plan and making constructive proposals, while at the same time indicating their financial implications. He thanked the representatives of the Secretariat, UNESCO and the United Nations Institute for Training and Research for their valuable statements.

22. He recalled that his country, formerly one of the jewels of a glorious civilization of which only ruined monuments remained, had been the cradle of the independence movement which had left its mark on modern Latin America. Credit for the awakening of the revolutionary spirit in Latin America was due to the influence of the University of St. Francis Xavier, established at Sucre in 1623. There, as well as in other universities founded subsequently, the works of the French philosophers and the principles which had inspired the French Revolution had been discussed. The many Latin American students and diplomatists who had studied international law there later had disseminated the ideas of liberty and independence, and in 1809 the first upheaval had occurred which was to lead to the creation of a number of States. One of the great leaders of that revolutionary movement, Simón Bolívar, had sought to form Greater Colombia by joining Upper Peru to it (an idea which was still vital and reflected in Latin American efforts to promote regional integration in the economic and social fields); but the inhabitants of Upper Peru had not wished to join those of Rio de la Plata or of Lower Peru, and thus, in 1825, Bolivia had been created.

23. Bolivia had had a great President—Marshal Andrés Santa Cruz—who had written the civil and the penal codes adopted in 1831 and inspired the codes which Bolivia had subsequently adopted, in particular the commercial and military codes and the code of civil procedure. Thus it had been the first Latin American country to have its own legislation. All those facts showed the extent of the contribution that Bolivia, from the establishment of its first university, had made to the teaching, study and dissemination of international law. And yet, paradoxically, after the war of 1879 Bolivia had had an iniquitous treaty imposed on it which deprived it of access to the sea.

24. Bolivia had always attended international meetings on the teaching and dissemination of international law, for it considered that understanding of that discipline should be encouraged. International law, like other aspects of law, was constantly evolving because of the influence of the economic and social phenomena current at the present time. While it was necessary to keep pace with that evolution—as the International Law Commission was doing by its excellent work—it was also necessary to modify the teaching of international law.

25. International public law and international private law were taught in the law faculties of all the seven universities in Bolivia. Courses in international law were also given at the Academy for Advanced Military Studies. However, technical assistance would be needed to bring teaching methods and study programmes up to date. He asked international organizations which had instituted aid programmes for dissemination of international law, such as UNESCO, to bear in mind the needs of countries like Bolivia with little development. He considered that, in view of the financial difficulties the inadequacy of the funds of the United Nations and of the Expanded Programme of Technical Assistance, an appeal should be made for co-operation from countries which could offer scholarships and provide law professors; and the great nations, in particular those which had an old and very rich legal tradition, should be urged to make a generous contribution to the programme recommended by the Special Committee. Bolivia would certainly be grateful for the efforts made on its behalf and would support any draft resolution which, with the co-operation of States Members of the United Nations, would make it possible to implement the recommendations of the Special Committee.

26. Mr. S. N. SINHA (India), speaking in exercise of his right of reply, expressed regret that the representative of Pakistan had thought it fit during his statement, to make certain innuendoes and allegations which appeared to be aimed at India. The Committee was at present considering matters which were quite complicated enough; therefore, any excursions into certain areas which might hinder its work should be avoided. He would refrain, at that stage, from making any further comments on the Pakistan representative's observations which, if they were in fact aimed at India, hardly merited a reply. The position of the Government of India, as well as the facts of the case, were on record. However, he reserved the right to return to the matter if developments made that necessary.

27. Mr. MATEEN (Pakistan) pointed out that he had not referred to any country by name. He had merely spoken of a country which had violated its international obligations and was not respecting the right of peoples to self-determination. Actions which were contrary to justice and morality were obviously entirely relevant to any discussion on international law.

28. Mr. S. N. SINHA (India) noted that the representative of Pakistan had used the words "a country", without specifying further. However, he wished to state that if the Pakistan representative's remarks were

aimed at India, the Indian delegation took exception to them.

29. The CHAIRMAN declared that the observations of the representatives of India and Pakistan would be duly recorded in the summary record of the meeting.

30. Mr. SANMUGANATHAN (Ceylon) said that he would like to see the summary records of meetings in English circulated more rapidly to delegations.

31. Mr. STAVROPOULOS (Legal Counsel) said he regretted the delay in the circulation of summary records. The summary records were drafted sometimes in English and sometimes in French, and thus had to be translated. He would try to speed up the publication of the summary records as much as possible.

The meeting rose at 12.25 p.m.