



*Chairman:* Miss Maria GROZA (Romania).

**AGENDA ITEM 47**

**Respect for human rights in armed conflicts: report of the Secretary-General (continued) (A/7720, A/8003, chap. IX, sect. E; A/8052, A/C.3/L.1797/Rev.2, A/C.3/L.1798/Rev.5, A/C.3/L.1806/Rev.1, A/C.3/L.1808/Rev.2, A/C.3/L.1809/Rev.2, A/C.3/L.1814, A/C.3/L.1815)**

**CONSIDERATION OF DRAFT RESOLUTIONS**  
(continued)

1. Mr. MATHYS (Canada) said that his delegation unreservedly supported the adoption of the Norwegian draft resolution (A/C.3/L.1806/Rev.1) since it approved of the humanitarian motives behind the text and thought that the reaffirmation of the basic principles for the protection of civilians in armed conflicts would not jeopardize any further thorough study of those principles that might be undertaken. It also recommended the adoption of draft resolution A/C.3/L.1809/Rev.2, whose sponsors had made a real effort at compromise in order to formulate an orderly procedure acceptable to all, with a view to solving a complex problem. It was obvious that after the results of the conference of government experts to be held in May 1971 under the auspices of the International Red Cross were known, the General Assembly should be in a better position to know which aspects of international humanitarian law required special study and to take appropriate specific measures.

2. On the other hand, his delegation could not vote in favour of the adoption of draft resolution A/C.3/L.1798/Rev.5 because of the legal inaccuracies it contained: the Geneva Conventions in fact related to the protection of all civilians in armed conflicts and did not provide that in each case it should be determined whether or not the conflict was a war of aggression and who was the aggressor. Operative paragraph 5 of the draft resolution also contained an inaccuracy, since bombardments of civilian populations were not mentioned in the instruments referred to in the paragraph. Although his delegation disapproved of such bombardments, it could not agree to international instruments being made to say what they did not say.

3. It also had reservations regarding operative paragraphs 4 and 5 of draft resolution A/C.3/L.1797/Rev.2 since it thought that the question of the protection of journalists engaged on dangerous missions was a matter for international humanitarian law. Journalists were, of course, entitled to protection and the Geneva Conventions were

inadequate in that respect, but it would be better not to entrust to the Commission on Human Rights, at its twenty-seventh session, the task of drawing up a separate draft international agreement on that subject. His delegation doubted, moreover, whether the Commission on Human Rights was competent to draw up an instrument of that kind.

4. Lastly, since it attached great importance to the application of the Geneva Conventions and to maintaining their integrity, his delegation supported the adoption of draft resolution A/C.3/L.1808/Rev.2, which it viewed in a strictly humanitarian light.

5. Mr. BUDAI (Hungary) noted that, in the new revised version of the draft resolution (A/C.3/L.1808/Rev.2) relating to the treatment of prisoners of war, changes had been made to the earlier text and, specifically, operative paragraph 3 had been deleted. He would like to know how, in that case, rule 123 of the rules of procedure of the General Assembly could be applied, since that rule stated that a motion might be withdrawn by its proposer at any time provided that it had not been amended and the sixth Hungarian amendment (A/C.3/L.1814, para. 6) related to operative paragraph 3.

6. The CHAIRMAN said that if she had understood correctly the statement made by the representative of the United States at the previous meeting, operative paragraph 3 of the draft resolution in question had been deleted at the request of other delegations. Rule 123 did not therefore appear to apply to the case in point.

7. Mr. STILLMAN (United States of America) said that he agreed with the Chairman's ruling and explained that the paragraph in question had been deleted to comply with an amendment submitted by the Pakistan delegation and other delegations.

8. Mr. BUDAI (Hungary) said that, to his knowledge, the Pakistan delegation had submitted no formal amendment along those lines and he pointed out that the Hungarian delegation's amendment to the operative paragraph 3 in question had been submitted before the United States representative had announced the deletion of the paragraph.

9. Mr. MANI (India) pointed out that only the day before he had warned the Committee against complications of that kind and explained that if the deletion of the operative paragraph 3 in question was agreed to, even though it had been announced after the time-limit for the submission of amendments had expired, he would propose the reinclusion of the paragraph as a sub-amendment. He added that if the formal ruling by the Chairman on that important question

seemed unacceptable to his delegation, the Committee would have to consider whether it had itself the right to accept his proposal.

10. Mr. VAN WALSUM (Netherlands) said he thought that it was clear from rule 123 of the rules of procedure that a motion could be withdrawn by its proposer at any time before voting on it had commenced. There was therefore no time-limit for the withdrawal of motions. In his view, under rule 123, the withdrawal of a motion could only be opposed if it had been amended and if the sponsor of the original text was therefore no longer the sole sponsor of the motion.

11. Mr. STILLMAN (United States of America) said that that was precisely his interpretation of rule 123.

12. Mrs. BARISH (Costa Rica) said she agreed with the representatives of the United States and the Netherlands. In her view, the Committee was constantly revising draft resolutions with a view to achieving the widest possible measure of agreement. The amendment proposed by Hungary was invalid since its purpose was to change a paragraph which had been deleted by the sponsors of draft resolution A/C.3/L.1808/Rev.2.

13. Mr. MANI (India) said that, in accordance with the last sentence of rule 123 of the rules of procedure, he would formally propose the reinstatement of operative paragraph 3.

14. Mr. LISITSKY (Byelorussian Soviet Socialist Republic) said that by deleting operative paragraph 3 from draft resolution A/C.3/L.1808/Rev.1 the sponsors had contravened the provisions of rule 123, since the Hungarian delegation had already submitted its amendment and the deletion was therefore irregular. The representative of India had of course the right to reintroduce the paragraph in the form of an amendment but that would create an unfortunate precedent.

15. Mr. BUDAI (Hungary) said that the interpretation of rule 123 given by the representatives of the United States, the Netherlands and Costa Rica did not correspond to the provisions of that rule. The reintroduction of paragraph 3 proposed by the representative of India was pointless, since his own delegation's amendment still stood.

16. Mr. VAN WALSUM (Netherlands) pointed out to the representative of the Byelorussian Soviet Socialist Republic that, since the amendment submitted by the representative of Hungary had not yet been adopted, the sponsors of draft resolution A/C.3/L.1808/Rev.2 unquestionably had the right to withdraw the paragraph 3 in question. The submission of an amendment and its adoption were in fact two very different things. He also wondered whether the Committee could really consider as a sub-amendment the new paragraph which the representative of India proposed to add to the draft resolution and which, by a curious coincidence, was identical with operative paragraph 3 of the original text. In his view, it was, rather, a new amendment submitted too late to be acceptable.

17. Mr. ČALOVSKI (Yugoslavia) said that if that interpretation of rule 123 was adhered to, any delegation could, by

the same right as the sponsors of draft resolutions, propose corrections to the wording of those draft resolutions until they were put to the vote.

18. Mr. STILLMAN (United States of America) requested the Chairman to indicate the decision she had taken with regard to the request by the Indian representative.

19. Mr. MANI (India) said that he wished to read out rule 123 once again in response to the objection raised by the Netherlands representative. In his view, the motion before the Committee had been the subject of an amendment by the Hungarian representative and it had subsequently been withdrawn by the sponsors in an irregular manner. If it was decided to accept the deletion of operative paragraph 3, a paragraph to which his delegation attached particular importance, he would reintroduce it. It would not, however, be identical with the original version since it would start with the words "*Requests*, if the Secretary-General agrees, . . .".

20. Mr. RATTANSEY (United Republic of Tanzania) said he thought that, by deleting operative paragraph 3 from draft resolution A/C.3/L.1808/Rev.1, the sponsors had withdrawn only a part of their motion. Under rule 123, the Indian delegation could reintroduce only a complete motion, not a part of that motion. The mistake had been to allow the sponsors to revise their proposal when the Hungarian representative had proposed amendments and the time-limit allowed for the submission of amendments had expired.

21. Mr. LISITSKY (Byelorussian Soviet Socialist Republic) said that he did not consider the arguments adduced by the Netherlands representative convincing. The rules of procedure of the General Assembly did not state that an amendment should have been voted on in order to be valid.

22. Miss AGUIRRE (Mexico) said that if the Indian representative had intended to propose an amendment to draft resolution A/C.3/L.1808/Rev.1, he should have done so within the time-limit allowed for the submission of amendments. Accordingly, his proposal was no longer admissible.

23. Miss SOLESBY (United Kingdom) said that the English version of rule 123 referred to amendments which had been adopted and not merely to amendments submitted. Moreover, as the Tanzanian representative had observed, there was no provision in rule 123 for a member to reintroduce part of a motion that had been withdrawn.

24. Mr. MANI (India) said that he had not formally submitted his sub-amendment at the previous meeting because he was unsure of the meaning of the word "motion", of which he would like to have a precise legal definition. He would also like to know whether the Pakistan representative had formally submitted an amendment to delete operative paragraph 3 within the prescribed time-limit, since he suspected that the United States delegation had not respected the time-limit allowed for the submission of amendments when it had deleted the paragraph.

25. Mr. LISITSKY (Byelorussian Soviet Socialist Republic) pointed out that although some delegations con-

sidered the English version of rule 123 to be ambiguous, the French text, namely "*Une motion... qui n'a pas fait l'objet d'un amendement*" indubitably referred to an amendment which had been merely submitted; the same applied to the Russian text.

26. Mr. EL SHEIKH (Sudan) said he thought that the problem could be solved by extending the time-limit allowed for the submission of amendments; that would enable both the Indian delegation and the Hungarian delegation to reformulate their amendments in the light of the latest version of the draft resolution (A/C.3/L.1808/Rev.2).

27. Mr. DUCCI (Chile) said that in order to interpret rule 123 correctly it was important to know whether the United States delegation had itself withdrawn part of its motion or whether it had accepted an amendment by another delegation.

28. Mr. SCHREIBER (Director, Division of Human Rights) said that he was prepared, at the request of the Chairman, to explain the procedural questions that had arisen in the Committee. He would do so on the basis of the way in which the rules of procedure had been applied at previous sessions of the Assembly. The situation could be summed up in the following manner: in the context of the Committee's consideration of the draft resolutions submitted to it, sponsors were able at any time to revise their proposals in the light of the debate until the voting started. Rule 123 of the rules of procedure, according to which a motion could not be withdrawn after it had been amended, only applied from the time when amendments had been formally adopted by the Committee. In the present case, special circumstances had arisen because the Committee had fixed a time-limit for the submission of amendments. The fact that the United States delegation had introduced amendments to its draft resolution after that time-limit had expired and, in particular, had withdrawn an operative paragraph had naturally created difficulties for delegations that wished to amend the draft resolution.

29. In his view, the Committee should not adopt too inflexible an attitude but should allow its normal debate to continue and authorize the Indian delegation to reintroduce the paragraph withdrawn by the United States delegation; that would be in keeping with the spirit of the last sentence of rule 123. Accordingly, the Committee could either extend the time-limit fixed for the submission of amendments, or merely authorize the delegation of India to reintroduce operative paragraph 3 of draft resolution A/C.3/L.1808/Rev.1, in view of the circumstances in which that document had been considered.

30. Mr. GANDA (Sierra Leone) said that he agreed with the Sudanese representative and with the Director of the Division of Human Rights. He hoped, however, that the extension of the time-limit for the submission of amendments would be considered as an exceptional decision and would not constitute a precedent.

31. Mr. NAMUTABO (Zambia) said that in his view the interpretation of rule 123 of the rules of procedure was a very simple matter: there was nothing to prevent the sponsors from withdrawing all or part of their draft

resolution up to the time it was put to the vote. Moreover, the second sentence of rule 123 clearly authorized the Indian delegation to reintroduce the motion withdrawn by the United States. The Hungarian amendment should therefore be considered as a sub-amendment.

32. Mr. STILLMAN (United States of America) said that the explanations given by the Director of the Division of Human Rights were highly pertinent. He pointed out that the sponsors of the draft resolution had deleted operative paragraph 3 solely in order to take into account the comments of other delegations. For their part, they were quite prepared to retain that paragraph, since they had originally proposed it. Consequently, irrespective of the interpretation given to rule 123, the United States delegation had no objection to the Indian delegation reintroducing operative paragraph 3, as worded in the earlier version of the draft resolution.

33. Mr. LISITSKY (Byelorussian Soviet Socialist Republic) said that the Director of the Division of Human Rights had given an interpretation of the second sentence of rule 123. His opinion on the first sentence, in other words on whether part of a proposal could be withdrawn, would also be welcome.

34. Mr. MANI (India) said that he would prefer the sponsors to retain operative paragraph 3, thus leaving the Hungarian amendments before the Committee.

35. The CHAIRMAN suggested that operative paragraph 3 of the earlier text (A/C.3/L.1808/Rev.1) should be retained in draft resolution A/C.3/L.1808/Rev.2 and that the sixth Hungarian amendment (A/C.3/L.1814, para. 6) should still stand.

*It was so decided.*

36. Mr. DE GAFFIER D'HESTROY (Belgium) said that because of the political motivations which some delegations attributed to draft resolution A/C.3/L.1808/Rev.2 he wished to emphasize that the sponsors were guided by purely humanitarian considerations. What they wished to do was to ensure the strict application of humanitarian conventions, to follow the line of conduct defined by the XXIst International Conference of the Red Cross, held at Istanbul in 1969, and to fulfil the expectations of the Secretary-General. The draft resolution covered all possible present and future applications of the Geneva Convention relating to the Treatment of Prisoners of War. It was, in fact, desirable that all States should respect the spirit of that Convention even if they were not signatories to it.

37. He agreed that, in all armed conflicts, combatants not covered by article 4 of the Geneva Convention relative to the Treatment of Prisoners of War should be accorded the same humane treatment defined by the principles of international law applied to prisoners of war. In his opinion, however, one essential condition was that such combatants should themselves be subject to the rules of international law. It was for that reason that his delegation would have preferred operative paragraph 4 of the draft resolution to follow the wording of resolution XVIII of the XXIst International Conference of the Red Cross.

38. The USSR representative had said at the 1798th meeting that the inclusion of the words “in an armed conflict, no matter how it was characterized”, in the sixth preambular paragraph of draft resolution A/C.3/L.1808/Rev.2, put the aggressor and his victim on the same footing. He did not, of course, wish to start a legal argument on the question, but in his view the Geneva Conventions protected the nationals of all parties to a conflict, regardless of the rights and wrongs of the case, and drew no distinction between aggressors and the victims of aggression, as far as the treatment to be given to individuals was concerned. The main consideration was that all prisoners of war should be treated humanely.

39. He could not understand why some members of the Committee accused the sponsors of being biased, and of attempting to secure the application of one of the Geneva Conventions at the expense of the others. In fact, they were seeking to ensure the strict application of all the Conventions. Since, however, the draft resolution dealt with prisoners of war, it was logical that it should refer more directly to the third Geneva Convention, which dealt specifically with the treatment of prisoners.

40. Contrary to what some delegations had said, operative paragraph 1 of draft resolution A/C.3/L.1808/Rev.2 was in complete conformity with the Geneva Conventions and did not distort article 126 of the third Convention.

41. Mr. MOUSSA (United Arab Republic) said that he would vote in favour of the draft resolution submitted by Norway (A/C.3/L.1806/Rev.1). He could also support draft resolution A/C.3/L.1809/Rev.2 if the tenth preambular paragraph did not exclude the possibility of recourse to other means of achieving the stated purpose. He hoped that his reservation, together with the explanations given on the previous day by the United Kingdom delegation, would be reflected in the Committee's report.

42. Draft resolution A/C.3/L.1797/Rev.2 applied to journalists who performed their work in an objective way and not to persons engaged in dubious activities that had nothing to do with journalism. He hoped that that reservation, which was shared by a number of delegations, would also be included in the Committee's report. The information referred to in the third preambular paragraph should be exclusively press information and the draft resolution was not applicable to any person obtaining information for purposes other than publication in the press. In the seventh preambular paragraph, the phrase “all categories of journalists” was ambiguous and the word “journalists” alone would be sufficient. Operative paragraph 3 wrongly gave special prominence to some provisions of the Geneva Conventions at the expense of others; the formula “all the provisions”, which would have covered all the provisions applicable to journalists, could have been used. He had no objection to the invitation addressed to the Commission on Human Rights in operative paragraphs 4 and 5, even though the Commission had an extremely heavy agenda for its twenty-seventh session. Lastly, with regard to operative paragraph 7, the question of the protection of journalists should be considered in the context of the more general question of respect for human rights in armed conflicts. His delegation would have felt it logical to abstain in the vote on the draft resolution in

question but, out of consideration for objective journalists and for the sponsors of the draft resolution, it would vote in favour of it.

43. He would also vote in favour of draft resolution A/C.3/L.1798/Rev.5, which he fully supported. The revisions to draft resolution A/C.3/L.1808/Rev.2 had improved the original text. His delegation, however, supported all the amendments proposed by Hungary (A/C.3/L.1814) and hoped that the sponsors would accept them; in particular, it supported the amendment to operative paragraph 4, which avoided giving special prominence to a specific article of one of the Geneva Conventions.

44. Mr. DABROWA (Poland) said that his delegation could not support draft resolution A/C.3/L.1797/Rev.2, since it did not believe that the question of the protection of journalists should be separated from the general question of the protection of non-combatants, or that the Commission on Human Rights should take up the special case of journalists when the whole question was to be considered by the conference of experts to be organized by the Red Cross. Furthermore, the reference in operative paragraph 4 to a draft international agreement and to an identification document prejudged the results of the study requested.

45. Poland supported draft resolution A/C.3/L.1798/Rev.5 and particularly welcomed the revision of operative paragraph 5, which had been introduced by the Sudanese representative at the previous meeting.

46. The principles set forth in the Norwegian draft resolution (A/C.3/L.1806/Rev.1) deserved general approval. They should, however, be referred to the Red Cross conference of experts for more thorough examination. The General Assembly might adopt that draft resolution at its twenty-sixth session.

47. His delegation could not support the draft resolution relating to prisoners of war (A/C.3/L.1808/Rev.2), which was designed solely to justify United States aggression in Viet-Nam. Captured United States soldiers were treated humanely; the only solution for Viet-Nam was the complete withdrawal of United States forces. Operative paragraph 4 of the draft resolution was an artificial addition, and the purport of that provision was better expressed in operative paragraph 4 of draft resolution A/C.3/L.1798/Rev.5. His delegation would vote against draft resolution A/C.3/L.1808/Rev.2, unless the amendments proposed by Hungary (A/C.3/L.1814) were adopted; those amendments would balance the text and his delegation supported them without reservation.

48. Poland supported draft resolution A/C.3/L.1809/Rev.2 in its present form, especially since operative paragraph 1 had been orally amended by the United Kingdom delegation at the previous meeting.

49. Mr. STILLMAN (United States of America) wished to reply to the criticisms of draft resolution A/C.3/L.1808/Rev.2. One charge levelled against the text had been that it attributed special importance to the third Geneva Convention. In fact, the sponsors believed that all the Geneva Conventions should be applied in their entirety; but, since the draft resolution dealt with the treatment of prisoners of

war, they had thought it was logical to refer to the Convention relative to the Treatment of Prisoners of War. He wished to state that he unreservedly supported operative paragraph 1 of draft resolution A/C.3/L.1809/Rev.2, which called for the application of all the relevant international instruments.

50. There had been some criticism of the phrase “no matter how it was characterized”, following the words “armed conflict” in the sixth preambular paragraph of draft resolution A/C.3/L.1808/Rev.2. He wished to point out that article 2 of the third Geneva Convention clearly indicated that the provisions of that Convention applied to all armed conflicts, even if the existence of a state of war had not been recognized by one of the parties. That provision was designed to ensure that all prisoners of war were treated with a minimum degree of humanity. It had been said that operative paragraph 1 of the draft resolution distorted the meaning of the third Geneva Convention. For his part, he felt that that paragraph was fully in keeping with article 126 of the Convention,<sup>1</sup> which he read out.

51. The Hungarian representative had proposed a new text (A/C.3/L.1814) for the second preambular paragraph. The United States delegation thought that that amendment was tautological, and could not accept it; the wording used in operative paragraph 1 of draft resolution A/C.3/L.1809/Rev.2 was preferable. The Hungarian representative had said that the reference to Articles 55 and 56 of the United Nations Charter in the third preambular paragraph of document A/C.3/L.1808/Rev.1 should be accompanied by a reference to Articles 1 and 2 of the Charter in the second preambular paragraph; that observation no longer applied, since the third preambular paragraph had been revised in the new version of the draft. The present wording of the second preambular paragraph followed the words of the Charter exactly. He proposed a sub-amendment to the Hungarian amendment in paragraph 1 of document A/C.3/L.1814, to the effect that a new paragraph as follows should be inserted after the second preambular paragraph of the present draft:

“*Reiterating* its firm belief in the termination of all armed aggression as envisaged in Articles 1 and 2 of the Charter and in other relevant documents of the United Nations,”.

52. The second Hungarian amendment (A/C.3/L.1814, para. 2) related to the text circulated in document A/C.3/L.1808/Rev.1, but no longer applied to the fifth pre-

ambular paragraph as revised in document A/C.3/L.1808/Rev.2. Also, he thought it would be extremely dangerous to insert the word “innocent”, since that would raise the question of how innocence should be defined. According to the Geneva Convention all persons, innocent or not, were entitled to humane treatment. The Hungarian representative had also proposed including a reference to “armed aggression” but the United States delegation had itself revised the draft by inserting the words “armed conflict” which were more general and more acceptable than the words proposed by Hungary.

53. The third Hungarian amendment (*ibid.*, para. 3) was to delete part of the sixth preambular paragraph, but the United States delegation felt that that paragraph accurately reflected resolution XI of the XXIst International Conference of the Red Cross—for which many countries represented in the Committee had voted—and that it should be retained as it stood. The United States could not accept the fourth Hungarian amendment (*ibid.*, para. 4), to delete the seventh preambular paragraph, since that paragraph was based on article 109 of the third Geneva Convention, which was extremely important. It was likewise unable to accept the fifth amendment (*ibid.*, para. 5), to delete part of operative paragraph 1, since the provisions of that paragraph were in keeping with article 126 of the Convention and resolution XI of the XXIst International Conference of the Red Cross, and should also be retained.

54. He did not think that the word “all” in operative paragraph 3 should be deleted, as proposed in the sixth Hungarian amendment (*ibid.*, para. 6), which would also entail the addition of several words to paragraph 3. The United States delegation proposed a sub-amendment to add the following words to the paragraph: “and all other persons involved in war and armed conflict”. That wording was broader and more acceptable than the one proposed by Hungary.

55. He had no objections of substance to the seventh Hungarian amendment (*ibid.*, para. 7), but thought that a reference to the Convention dealing specifically with the subject of the draft resolution would be better than a reference to international instruments in general. Moreover, the provisions of draft resolution A/C.3/L.1809/Rev.1 fully met the point made by the Hungarian representative. The United States delegation proposed a sub-amendment to the effect that the text of the seventh Hungarian amendment should be added to draft resolution A/C.3/L.1808/Rev.2 as a new operative paragraph 5.

<sup>1</sup> See United Nations, *Treaty Series*, vol. 75, 1950, No. 972.

*The meeting rose at 1.25 p.m.*