



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.1, A/C.3/L.1798)

GENERAL DEBATE (*continued*)

1. Mr. BAROODY (Saudi Arabia), speaking on a point of order, said that the Committee had been dealing with freedom of information since 1947 and that, although the matter might seem to be irrelevant to the item before the Committee, the question of freedom of information was being played down in many parts of the world and was being concealed from the people of the United States. Discrimination was undeniably exercised in the information provided to the public concerning the various committees of the General Assembly, the effect of such discrimination being to leave the people of the United States unaware of many issues, especially, of course, when such action served the interests of those who held the power of decision in the host country of the United Nations.
2. Referring to the fact that television cameras had been set up to record the statement to be made by a United States Senator, he said that all delegations, not only in the Third Committee, but in all United Nations committees and bodies, should have the opportunity to be heard by the people of the United States. The information media in the host country were conducting a campaign of silence, and even ridicule, against the representatives of other nations to the United Nations. That campaign should be stopped and the information media required to report the deliberations of United Nations bodies impartially.
3. In conclusion, he asked the Chairman and the United States representative to inform him of the source of the funds from which payment would be made for the televised broadcast of the statements.
4. Mr. PELL (United States of America) said, in reply to the representative of Saudi Arabia, that in his country there was complete freedom of information and freedom of the press; it was therefore impossible to predict which events would be broadcast on television.
5. Reverting to the question of human rights in armed conflicts, he said that all representatives had been aware of the air of frustration or even cynicism that had attended the celebration of the twenty-fifth anniversary of the founding of the United Nations. He had participated in the work of the San Francisco Conference and remembered the great hopes and the vision of a world without war and violence which had been cherished at that time. Although not all of those hopes had been realized, much had been accomplished. Wars had been averted, others had been ended and the lives of millions of people had been improved through the efforts of the United Nations and its specialized agencies. The Third Committee itself could take particular pride in having done so much to translate the human rights and fundamental freedoms enshrined in the Charter into practice.
6. Since it was doubtful that the Organization would succeed in ending all wars in the near future, it was essential that the Committee should turn its attention to the question of how human rights might be better protected in time of conflict. The reports of the Secretary-General (A/7720 and A/8052) contained a number of interesting proposals on the subject and a thorough study of the relevant declarations and conventions, including the Geneva Conventions of 1949; the next step was to determine how the existing conventions might be improved or extended and duly observed. The Committee should refrain from discussing the political aspects of armed conflicts, which were the province of other United Nations organs, and should confine itself to ensuring that the combatants complied strictly with the international conventions to which they were parties and conformed to generally accepted standards of international conduct.
7. He was going to take up the specific question of the protection of prisoners of war, not because it was any more important than the protection of the rights of others engulfed in conflict, but because those rights had been precisely defined in the third Geneva Convention of 1949, relative to the treatment of prisoners of war, to which most nations, including North Viet-Nam, South Viet-Nam and Laos, were parties. The Convention was clearly applicable to the situation in Viet-Nam. As matters stood, nearly 1,600 United States citizens were listed as missing or captured in South-East Asia and it was not known whether they were dead or held as prisoners. Only 323 of them had been heard from. The fact that more than 1,200 American families were living with the anguish of not knowing whether their husbands, fathers and sons were alive or dead was evidence enough that the requirements of the Geneva Convention with respect to notification of capture were not being observed. Some of those being held captive in South Viet-Nam and Laos had not been permitted to send even one letter to their families in the previous five years.
8. The North Viet-Nameese and spokesman for other Communist countries in South-East Asia maintained that prisoners were "humanely" treated. That made it difficult

to understand why they did not permit inspection of the camps by the International Committee of the Red Cross. Instead, the North Viet-Nameese claimed that the prisoners were "war criminals" and not entitled to the protection of the Geneva Convention, by reason of the North Viet-Nameese reservation to it—which clearly did not apply to the existing situation.

9. It was obvious that the North Viet-Nameese were merely attempting to cast a veil over their refusal to accord proper treatment to the prisoners or to permit access to them. In fact, they had indicated their intent to use those unfortunate captured military men as political pawns. The third Geneva Convention imposed no duties which would not be required by any reasonable and humanitarian standard of conduct, such as that of allowing every prisoner of war to write directly to his family and the right of the family to know whether a prisoner was alive or dead. The North Viet-Nameese, however, kept the prisoners in isolation, and often shackled and ill-treated them. The Convention provided for regular inspection in order to ensure minimum living conditions and referred specifically to the right to humane treatment, adequate housing and food, and proper medical care. It required ill or seriously wounded prisoners to be repatriated and suggested that prisoners who had undergone a long period of captivity should be repatriated or interned in a neutral country. Almost all the United States prisoners in South-East Asia qualified for immediate repatriation on those grounds, because some of them had been in captivity for seven, five or three years. That cruel situation was not limited to one side: more than 11,000 prisoners had been held by South Viet-Nam for three years or more.

10. As President Nixon had said at the 1882nd plenary meeting of the General Assembly, on 23 October 1970, the issue was not a political or a military one; it was a humanitarian issue. The United Nations, he said, should register its concern about the treatment of prisoners of war and press all adversaries to the conflict to honour the Geneva Conventions. If the existing complex of agreements was insufficient, consideration would have to be given to adopting measures to prevent a recurrence of the tragic situation. The United States laid no claim to a perfect record in the treatment of prisoners of war, but its actions were open to inspection and it had sought to remedy such abuses as had come to light. Moreover, there was little doubt that prisoners of war in South Viet-Nam were being treated in accordance with the Geneva Convention. On that basis, the United States Government was asking North Viet-Nam to do the same: to permit inspection, as a means of ensuring compliance with agreed standards, and to release those prisoners who were entitled to repatriation under the terms of the Convention. The obligations imposed upon the signatory Powers by the Geneva Convention were detailed and precise, and the details of North Viet-Nameese violations of those obligations were also known. Representatives of the International Red Cross had repeatedly requested permission to inspect the prisoner-of-war camps but had never received a reply from the Government of North Viet-Nam.

11. Many Americans, including himself, had questioned the wisdom of the Viet-Nam war, but the ill-treatment by the North Viet-Nameese of captured United States military

men had united those who supported and those who opposed the war, and had merely encouraged those who wished to expand and prolong it. Those who opposed the policy which resulted in the capture of prisoners were nevertheless concerned that the prisoners' rights should be respected. To believe that the anxiety and frustration of the prisoners' families might cause them to blame the United States Government for the continuation of the war was counter-productive from every point of view, since there was perhaps no greater obstacle to peace than the continued ill-treatment of captured United States military men. Their part in the conflict ended with their capture; they should not now become political pawns in negotiations.

12. Few acts would awaken more hopes than a favourable response from Hanoi to the pleas of the Secretary-General and the International Red Cross to permit inspection of the prisoner-of-war camps. The issue before the Committee was not the war itself; it was that of appealing, through the community of nations, to the humane feelings uniting all peoples for the condemnation of all violations of accepted standards of conduct without regard to their source. The failure to treat captured military men in accordance with the relevant conventions did not affect only the combatants, inasmuch as any act which obstructed man's slow progress towards the rule of law cast doubt upon his common future.

13. Mr. YAZID (Algeria) said that the content of the statement of the United States representative explained why it had been so widely publicized. He pointed out that the question of respect for human rights in armed conflicts had been considered in connexion with the situation in Indo-China at the previous session, and that his delegation had then refuted the arguments of the United States and expressed its support of the Viet-Nameese authorities' position with respect to the problem of war criminals. It had to be borne in mind, however, that any discussion of the Viet-Nam situation necessarily led to a debate on foreign aggression and on the war waged by a large and powerful State against a small nation whose main weapon was a moral one. It was precisely that moral strength which made revolutionary movements and people's guerrilla forces invincible; because they struggled for human dignity and social progress, they were profoundly humanitarian, and their respect for human values earned them the solidarity of all peoples.

14. Algeria understood and supported the position of the people of Viet-Nam, and had expressed its stand in the United Nations on a bilateral basis, to representatives of the United States Government. If there was to be a debate on the question in the Committee, reference would have to be made, not only to the views expressed by the United States representative, but to the other view, as expressed in a document circulated at the request of the Hungarian delegation.<sup>1</sup> Moreover, if an appeal was to be made, it should urge that aggression in Indo-China should be ended and all foreign troops withdrawn from the peninsula, since those were the feelings of the world community as a whole. A prolonged debate on the respect for human rights shown

<sup>1</sup> Transmitted to the Permanent Missions of the States Members of the United Nations under cover of a note verbale of the Secretary-General, dated 21 October 1970 (PO 240 VINA (2)).

by the aggressors in Viet-Nam might be useful and, if it were undertaken, his delegation would agree from the start that a judgement should be made on the basis of testimony from United States sources, such as journalists' reports and statements by national figures.

15. Mr. WILSON (Liberia) said that, as stated in the first report of the Secretary-General (A/7720), the four Geneva Conventions of 1949 applied to all international conflicts, even if the state of war was not recognized by one of the parties to the conflict. Article 3, which was common to all four Conventions,<sup>2</sup> was of particular interest to the Committee because it called upon the parties to an international conflict to observe a minimum standard of conduct and provided that persons taking no active part in the hostilities, including members of armed forces who had laid down their arms, should be treated humanely. Torturing a war prisoner was an unforgivable and entirely unjustifiable crime against the human race.

16. Mankind was, however, in an age in which violence appeared to have become a religion. Millions of dollars were being appropriated for arms and ammunition, with no thought for the fact that the more arms produced, the more the future was darkened with insecurity and fear. Man had become accustomed to violence and had become insensitive to the suffering that wars had brought upon millions of people in the twentieth century. Eighteen million lives had been lost because of mass extermination by the Nazis. In an Asian city, 150,000 civilians had been killed by a single bomb. Hundreds of Africans were being starved and tortured in the prisons of South Africa, Southern Rhodesia, Angola and Mozambique. The world of the twentieth century was witnessing unprecedented savagery.

17. Man's capacity to feel moral indignation in the face of brutality had become atrophied. Man had become too numb to experience anything but a superficial reaction to the suffering of his fellow men. Such failure to identify oneself with others, that inner emptiness which the poet T. S. Elliot had prophetically described in 1925, might be due to the fact that mankind was living in an age of uncertainty, war and violence. The recent news item to the effect that the nuclear stockpiles of the United States and the USSR were sufficient to blast every human being with the equivalent of fifteen tons of TNT gave grounds for thinking, in Shakespeare's words, "Judgement, thou art fled to brutish beast and men have lost their reason".

18. Mrs. DE BROMLEY (Honduras) said that there was a contradiction inherent in any discussion of item 47, since the very existence of an armed conflict implied the violation of the most fundamental human rights, despite the fact that the human mind had achieved so much technical progress. Such considerations caused one to ask whether scientific progress was really worth while if the wealthiest, most powerful and most advanced countries resorted to armed conflict to solve their problems. Nevertheless, that sad reality had to be faced, and the members of the Third Committee, in particular, had to do everything in their power to alleviate the suffering of all persons, civilian or military, affected by armed conflicts. She therefore urged the members of the Committee to set aside

political questions and think only about individuals, without regard to race, religion or nationality, so that they might prepare resolutions inspired only by humanitarian considerations.

19. Mr. OTHMAN (Jordan) said that, although various resolutions of the General Assembly and other United Nations organs referring to international conventions on armed conflicts were mentioned in paragraphs 195 to 203 of the report of the Secretary-General (A/8052), resolutions adopted by the specialized agencies, in particular WHO and UNESCO, had been omitted. Annexes II and III of the report of the Commissioner-General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East<sup>3</sup> contained, respectively, a resolution on health assistance to refugees and displaced persons in the Middle East, adopted by the twenty-third World Health Assembly, and three resolutions on co-operation with the United Nations Relief and Works Agency, adopted by the Executive Board of UNESCO. Those resolutions went to the heart of the question of respect for human rights in armed conflicts and showed that Israel was violating the health and education rights of the inhabitants of the territories which it had occupied. His delegation believed that those WHO and UNESCO resolutions should have been mentioned in the report of the Secretary-General.

20. Mrs. WARZAZI (Morocco) said that it could not be overlooked that there was also an armed conflict in the Middle East and that therefore the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/8089) should be distributed as a working document to the members of the Committee.

21. Mr. CSATORDAY (Hungary) said that when the representative of the United States had spoken of the tragic situation in Viet-Nam, he had only presented one aspect of the problem. He had said, among other things, that North Viet-Nam was not respecting the Geneva Conventions relating to prisoners of war. But if some conventions or agreements were mentioned, others should also be cited. The representative of the United States had mentioned the inhuman treatment of United States prisoners of war, but not the inhuman treatment inflicted on the civilian population in South Viet-Nam. Massacres like that of Son My had been repeated hundreds of times and in 1969 alone more than 1,600 hamlets—14 per cent of the villages in South Viet-Nam—had been destroyed by aerial bombardments and repeated ground operations by United States and satellite forces. In that respect, the policy acknowledged by the Government of the United States itself of "pacification of South Viet-Nam" and "Viet-Namization of the Viet-Nam war" could not be overlooked. Those expressions concealed an inhuman policy comparable only to that of the Nazis. His delegation had submitted to the Secretary-General a document of the Democratic Republic of Viet-Nam,<sup>1</sup> providing an analysis of that policy, supported by facts, which had been distributed to all delegations. Although some of the information in the document had been published in the press, much of it had been kept from the public because it was classified as a military secret. The

<sup>2</sup> United Nations, *Treaty Series*, vol. 75, 1950, Nos. 970-973.

<sup>3</sup> See *Official Records of the General Assembly, Twenty-fifth Session, Supplement No. 13*.

representative of the United States had said that nearly 1,600 United States citizens were missing in South-East Asia and that 1,200 United States families were living in anguish. But there was no comparison between that and the figures relating to the civilian population of Viet-Nam. The document of the Democratic Republic of Viet-Nam mentioned figures and data which gave a clear idea of what was happening in Viet-Nam. With regard to prisoners of war, it was sufficient to read a passage on pages 4 and 5 of the Democratic Republic's document to comprehend the atrocities to which prisoners of war in South Viet-Nam were subject. Viet-Nameese prisoners were kept like animals in the so-called "tiger cages", and were tortured and deliberately killed by methods similar to those of the Nazis at Auschwitz, Dachau and Buchenwald.

22. Those were the facts, the other side of the coin. But the United States troops were also resorting to other methods to destroy the means of living of the population. The chemical agents which were sprayed from the air to destroy crops had caused injury to more than 300,000 persons as well. All that was a clear indication of the means being employed by the United States troops. To crown all, the war had now been extended to Laos and Cambodia. Those acts were flagrant violations of international law and the Geneva Conventions.

23. In such circumstances, how could the frustration of the families of United States prisoners of war be compared with the suffering of whole countries against which aggression had been committed? Every problem must be placed in its context, including that mentioned by the representative of the United States. When human rights were being so seriously violated, how should the captured pilots who had committed indiscriminate acts of aggression against old people, women and children be considered? As prisoners or rather as war criminals? Moreover, the fact had to be taken into account that there had been no official declaration of war. Hence it was a question of unprovoked attacks upon a civilian population.

24. In conclusion, he said that the source of all such brutality must be attacked and urged Mr. Pell, as a United States Senator, to use his political influence with the Government of his country to have the Government withdraw its troops from the entire region, put an end to the war in South-East Asia and compensate the victims of the aggression.

25. Mr. RYBAKOV (Union of Soviet Socialist Republics) said that he first wished to support the comments of the representative of Saudi Arabia concerning the publicity given to United Nations debates. The position of the USSR regarding the existing conflict in the Indo-China peninsula was well known, and he endorsed the statements of the representatives of Algeria and Hungary, especially the statement of the former to the effect that the principal call should be for the immediate withdrawal of all foreign troops from Indo-Chinese territory so that, as a basic and fundamental step towards ensuring respect for human rights, an end could be put to the aggression.

26. He expressed his interest in the information which the delegation of Hungary had provided and, lastly, expressed the hope that the representative of the United States would

do everything in his power to ensure that his country signed the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.

27. Mr. PELL (United States of America) shared the concern expressed in the Committee for the lot of freedom fighters but considered that the Committee was not the proper place to examine that question. The question at issue was that of prisoners of war; in that respect he stressed the need to refer not only to United States citizens, but also to all the Viet-Nameese, North and South, whose fate was of equal concern to his delegation.

28. Mr. RYBAKOV (Union of Soviet Socialist Republics) replied to the United States representative that, while it was admittedly not for the Committee to discuss solutions to the problems of Viet-Nam or peace in Indo-China, there was no doubt that the main prerequisite for protecting human rights in armed conflicts was the ending of such conflicts.

29. Mr. EL-FATTAL (Syria) supported the request made by the representative of Morocco that the report in document A/8089 should be distributed as a working document of the Committee. He considered that its circulation might be very useful without prejudicing appropriate consideration of the document by the General Assembly.

30. He also supported the representative of Jordan with regard to the inclusion of the pertinent resolutions of WHO and UNESCO in the report of the Secretary-General (A/8052).

31. Mr. LORCH (Israel) said that, although he knew that some delegations wished to bring the question of the Middle East into all the Committee's debates, he considered it an exaggeration to say that the report on the Middle East (A/8089) should be examined twice. The report should be referred to the Assembly's General Committee so that the latter could allocate it to the Committee which it regarded as competent to examine it.

32. Mr. MAHMASSANI (Lebanon) believed that the procedure suggested by Israel for the consideration of the report on the Middle East (A/8089) was wrong. In any case, if there was any delegation which persisted in introducing the question of the Middle East into all the debates, it was the delegation of Israel.

33. He supported the suggestions made by the delegations of Morocco and Syria, because he considered that the document in question would be very useful for the work of the Committee.

34. Mr. CSATORDAY (Hungary) asked the Secretariat, in view of the wishes of various representatives for which the Hungarian delegation was acting as spokesman, to make available to the Committee the note verbale of the Secretary-General to which he had referred in his previous statement.

35. Mr. EL REEDY (United Arab Republic), replying to statements made by the representative of Israel, said that he had no wish to raise the Middle East question when

speaking on topics which were unrelated to it. However, Israeli violations of the Geneva Conventions and of many other international instruments concerning the protection of human rights impinged on so many fields that it was impossible not to encounter some of the consequences when discussing the various agenda items. Just as the United States delegation, availing itself of its legitimate right, had referred to alleged violations of the third Geneva Convention, so other representatives wished to raise the question of Israeli violations of other conventions and instruments, especially when such violations were referred to in United Nations documents. In such instances those documents were of great interest to members of the Committee.

36. He therefore endorsed the request of the Moroccan delegation, supported by the Syrian delegation, that the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/8089) should be circulated as a working document of the Third Committee.

37. Mr. SCHREIBER (Director, Division of Human Rights), replying to the observations of the Jordanian representative, recalled that the Secretary-General had prepared the report on respect for human rights in armed conflicts (A/8052) in pursuance of General Assembly resolution 2597 (XXIV). The main body of the study was of a general nature and the Secretary-General had not seen fit to refer, in suggesting future juridical and legislative measures, to particular situations which would be considered under other agenda items. However, resolution 2597 (XXIV) also requested the Secretary-General to give his attention to the need for protection of the rights of civilians and combatants in conflicts which arose from the struggles of peoples under colonial and foreign rule for liberation and self-determination; that was done in chapter X of the report. As the question under study was a new one, it had been thought proper to base the study on some of the relevant resolutions of the General Assembly and of other United Nations organs which referred to certain specific situations, including the Middle East conflict, thus giving expression to the Organization's views on the matter. However, in accordance with the usual practice, resolutions of the specialized agencies had not been included; furthermore, while the specialized agencies had been asked to submit comments during the preparation of the first study, it had been thought that their observations were not essential to the analysis undertaken in the course of the second study.

38. The UNESCO and WHO resolutions to which the representative of Jordan had referred were contained in annexes II and III of the report of the Commissioner-General of UNRWA, which had already been circulated and which appeared on the agenda of the Special Political Committee. Thus, as the texts of those resolutions were available to all delegations—and could of course be referred to by them in connexion with the item at present being considered by the Third Committee—he felt it would not be necessary or appropriate to amend the report of the Secretary-General. If there were other resolutions of specialized agencies which had not been reproduced in documents already circulated and which the Committee would like to have at its disposal, the Secretariat would take steps to ensure that they were circulated.

39. Replying to the Moroccan representative, he said that the report of the Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories (A/8089), prepared in accordance with General Assembly resolution 2443 (XXIII), had been circulated as an Assembly document to all delegations, and there would be no difficulty in making a suitable number of copies available to members of the Committee.

40. Mr. OTHMAN (Jordan) thanked the representative of the Secretary-General for his observations and clarifications. He hoped that, in future, resolutions of both the General Assembly and the specialized agencies concerning respect for human rights in occupied territories would be referred to in the Secretary-General's report. In the present instance he did not believe that the reference to the UNESCO and WHO resolutions in the UNRWA report was sufficient. Furthermore, consideration of the UNRWA report in another Committee of the General Assembly ought not to preclude its discussion in the Third Committee, which was concerned with matters of human rights.

41. Mr. CSATORDAY (Hungary) pointed out that the Director of the Division of Human Rights had not answered his question regarding the possibility of circulating to members of the Third Committee the document of the Democratic Republic of Viet-Nam that had been submitted through the Hungarian delegation. He wished to know whether that document could be made available to the Committee.

42. Mr. SCHREIBER (Director, Division of Human Rights) apologized to the Hungarian representative for not having answered his question. Before doing so, he would like to learn more about the nature of the document. He believed that the note of the People's Republic of Hungary had been transmitted as a note verbale and not as a document of the General Assembly. In any case, he would verify the procedure to be followed for issuing the document.

43. Mr. CSATORDAY (Hungary), supported by Mr. SATHE (India), said that he knew that a difference existed between United Nations documents and General Assembly documents, but, as he recalled, there had been occasions when non-United Nations documents, for instance those of the World Youth Assembly, had been circulated to members of the General Assembly. He asked why the same procedure could not be applied to the document of the Democratic Republic of Viet-Nam. Furthermore, as only one copy of the Viet-Nameese document had been received by each of the missions and perhaps had already been dispatched to its Government, the document should be circulated in the Third Committee for use by members.

44. Mr. MAHMASSANI (Lebanon) observed that the circulation of two documents had been called for and asked whether the circulation of the documents requested by Morocco and Hungary had been agreed to.

45. Mr. SCHREIBER (Director, Division of Human Rights) said that document A/8089 would be circulated. Since the document that the Hungarian delegation had asked to be circulated was not yet a document of the

General Assembly, he would find out the procedure to be followed in order for it to be circulated in the Third Committee.

46. Mr. CSATORDAY (Hungary), supported by Mr. RYBAKOV (Union of Soviet Socialist Republics), said that the Secretariat was often dilatory in circulating certain documents. It had taken a month to decide whether the document of the Democratic Republic of Viet-Nam could be distributed as a note verbale or a General Assembly document. He hoped that that delay would not be repeated now and that the document would be issued to the Committee at its next meeting.

47. Mr. MAHMASSANI (Lebanon), supported by Mr. WYZNER (Poland) and Mr. RYBAKOV (Union of Soviet Socialist Republics), said that it was for the Third Committee and not the Secretariat to decide whether or not a document should be circulated. As the Committee had heard no opposition to the circulation of the document

of the Democratic Republic of Viet-Nam, it was clear that it should be circulated.

48. Mr. SCHREIBER (Director, Division of Human Rights) said that he would give the matter his immediate attention. If the Committee decided that the document of the Hungarian delegation should be circulated, the Secretariat would do all in its power to meet the wishes of members as quickly as possible.

49. The CHAIRMAN stated that document A/8089 would be circulated as requested by the representative of Morocco. If there were no objections, she would assume that the Committee had decided to request that the document of the Democratic Republic of Viet-Nam, whose circulation had been requested by the Hungarian delegation, should be circulated to members at the next meeting.

*It was so agreed.*

*The meeting rose at 1.30 p.m.*