



Chairman: Miss Maria GROZA (Romania).

AGENDA ITEMS 53 AND 60

Elimination of all forms of racial discrimination (*concluded*) (A/8003, chap. IX, sect. A; A/8027, A/8057, A/8061 and Add.1 and 2, A/8062 and Add.1 and 2, A/8117, A/C.3/L.1765, A/C.3/L.1803):

- (a) International Year for Action to Combat Racism and Racial Discrimination: report of the Secretary-General;
- (b) Measures for effectively combating racial discrimination and the policies of *apartheid* and segregation in southern Africa: report of the Secretary-General;
- (c) Report of the Committee on the Elimination of Racial Discrimination, submitted under article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination;
- (d) Status of the International Convention on the Elimination of All Forms of Racial Discrimination: report of the Secretary-General

The importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights (*concluded*) (A/7998)

EXPLANATIONS OF VOTE (*concluded*)

1. Mrs. SAWYER (Sierra Leone), referring to draft resolution A/C.3/L.1799/Rev.1, adopted at the 1778th meeting, said that she would have voted in favour of the fifth preambular paragraph and operative paragraph 4 if there had been separate votes on them.

2. Mr. MOELLER (Denmark) recalled that in its statement and in its explanation of vote on agenda item 55, concerning youth, his delegation had expressed the conviction that committees should confine themselves to the agenda items allocated to them by the General Assembly. That view had been reiterated in the statement made by the Norwegian representative on behalf of the Nordic countries at the preceding meeting and was the reason why his delegation had voted against draft resolution A/C.3/L.1800/Rev.1 and abstained on draft resolution A/C.3/L.1802/Rev.1. His delegation feared that the discussion had taken a trend which would hinder rather than contribute to the solution of problems before the United Nations. History and political experience had taught that high aims were best achieved by carefully planned action and by co-ordinated effort. The difficult and controversial prob-

lems that inevitably faced a world organization might understandably give rise to prolonged debate in the committee within whose competence they fell, but they should not be allowed to hold up work in other committees.

3. Mr. BENGTSON (Sweden) said that for substantive reasons his delegation had voted against operative paragraphs 4, 5, 6 and 7 of draft resolution A/C.3/L.1800/Rev.1. Paragraph 4 pointed clearly to the possibility of expelling South Africa from the United Nations, whereas his delegation, despite its strong condemnation of *apartheid*, believed that the principle of universality should be upheld. Under paragraphs 5 and 6 the General Assembly would take decisions on sanctions against South Africa which, though proper and necessary, were a matter for the Security Council in accordance with the relevant provisions of the United Nations Charter. Paragraph 7 implied the use of force, which his delegation could not accept as a means of solving international problems. The adoption of those paragraphs had made it impossible for his delegation to support the resolution as a whole.

4. On the procedural aspect, he strongly supported the statement made by the Norwegian representative on behalf of the Nordic countries concerning the division of work between the Third Committee and the other Main Committees of the General Assembly. The establishment of the seven Committees was simply a device to enable the Assembly to perform its work in an orderly and efficient manner. The Assembly had assigned the general problem of racial discrimination to the Third Committee and had decided to give special attention to the gravest form of racial discrimination—*apartheid*—in another Committee. What mattered in the end was the collective body of resolutions adopted by the Assembly on the problem of racial discrimination, including *apartheid*.

5. For the reasons he had given, draft resolutions A/C.3/L.1800/Rev.1 and A/C.3/L.1802/Rev.1 were clearly outside the Committee's competence in view of the decisions taken by the Assembly at the start of the current session on the proposal of the General Committee. Any elaboration of the principle of self-determination was clearly a matter for the Fourth Committee: it was particularly unacceptable to refer the matter to the Commission on Human Rights. The Committee should observe particular restraint and self-discipline, for it was easy to find human rights aspects in almost every item on the Assembly's agenda.

6. On the manner in which the voting had been conducted, he said that, while any representative was entitled to request separate votes on parts of draft resolutions, he could find no justification for separate votes on paragraphs where no such request had been made, or for separate votes

on the preambular and operative parts as a whole. The normal procedure was to deal first with any separate votes requested and then vote on the resolution as a whole. His comments were not intended as a criticism: his concern was to avoid unnecessary difficulties for delegations in correctly expressing their positions in the voting.

7. Mr. LE DIRAISON (France) said that his delegation's position on draft resolutions A/C.3/L.1800/Rev.1 and A/C.3/L.1802/Rev.1 had been dictated by the conviction that they were to a large extent beyond the Committee's competence. Moreover, certain provisions in them were unacceptable. In draft resolution A/C.3/L.1800/Rev.1 it had voted against operative paragraph 2, which contained an indirect call for insurrection and implied interference in the internal affairs of States; against operative paragraphs 3, 5 and 6, which proposed measures infringing the sovereignty of States, or condemned States in the exercise of that sovereignty; against operative paragraph 4, which ignored the responsibilities of the Security Council under the Charter and, indirectly, might lead to the expulsion of a State Member of the Organization; and against operative paragraph 7, which condemned the Government of a Member State by name.

8. In draft resolution A/C.3/L.1802/Rev.1 his delegation had voted against the third preambular paragraph because it was an implied criticism of the Charter and paid little heed to the gains made in the process of decolonization. Moreover, it could open the door to a revision of the Charter, which would be inopportune and might have dangerous consequences in view of the fact that the Charter constituted a unanimous commitment by States Members and established the Unity of the Organization on a basis acceptable to all. His delegation had voted against operative paragraphs 1 and 2 because the right of peoples to self-determination was a right "of peoples" and not a "human" right; it could not be considered independently of the cases to which it applied and those were, in accordance with the Charter, the concern of other bodies. Moreover, the texts went too far: such phrases as "by whatever means at their disposal" and "all kinds of . . . material assistance" could justify and even legalize actions condemned by law and strongly opposed by the United Nations. His delegation had voted against operative paragraph 6 because it did not consider that the Commission on Human Rights was competent to deal with questions of decolonization and self-determination, which, under the Charter, fell within the competence of other United Nations organs. His delegation had abstained in the separate vote on the phrase "especially of the peoples of southern Africa and Palestine" in operative paragraph 5 for reasons relating to the Committee's competence, and not for political considerations. Its position on the rights of the peoples of southern Africa and Palestine was well known to all members.

9. Mr. COLL (Venezuela) said that his delegation had voted in favour of draft resolutions A/C.3/L.1799/Rev.1 and A/C.3/L.1800/Rev.1, in line with its steadfast opposition to all forms of racial discrimination and support for all measures to eliminate that injustice and improve the lot of the peoples subjected to it.

10. His delegation had abstained in the vote on draft resolution A/C.3/L.1802/Rev.1 because it merely reiterated

principles and concepts set forth in the Charter and in resolutions adopted by various United Nations bodies. The key words in the title of the agenda item were "importance" and "for the effective guarantee and observance of human rights" but that was not reflected in the text. The subject of item 60 required careful study with a view to finding means of assuring and safeguarding human rights. What was important was to identify, for example, the consequences of the absence of those rights for progress and development and the maintenance of peace. Venezuela's position was well known to the United Nations. It had always voted for measures to guarantee the full application of General Assembly resolution 1514 (XV).

11. Mr. GIAMBRUNO (Uruguay) said that draft resolution A/C.3/L.1799/Rev.1, of which his delegation was a sponsor, had been designed to secure the widest possible acceptance as a positive contribution to the elimination of racial discrimination. His delegation had supported draft resolution A/C.3/L.1800/Rev.1 but had had reservations with regard, in particular, to the eighth preambular paragraph and operative paragraph 6, which would prejudice the decisions of the Security Council. His country had strictly observed Security Council decisions in accordance with Article 25 of the Charter. His delegation also disagreed with the condemnation of the United Kingdom in operative paragraph 7, since it appreciated that country's difficulties in meeting its responsibilities concerning Southern Rhodesia. That did not, however, imply any weakening on the part of his country towards Southern Rhodesia, as would be seen from its action in the Security Council. Subject to those reservations, his delegation had voted for the draft resolution as a whole.

12. It had supported almost the whole of draft resolution A/C.3/L.1802/Rev.1, but had had reservations concerning operative paragraphs 1, 4 and 5 for the same reasons as those stated by a number of other delegations.

13. On the results of the voting as a whole, he regretted having to mention the discourteous attitude of certain delegations, including India, Saudi Arabia and the Union of Soviet Socialist Republics, towards draft resolution A/C.3/L.1799/Rev.1 and its sponsors. Some of them had gone rather far in referring to complicity and hypocrisy and had even said that support for the resolution meant support for racism. He was sure that the nations represented by those speakers were not responsible for the inappropriate language used by the latter, which he preferred to believe was attributable to their enthusiasm for a just cause. It would be well to recall the past history of those countries which had been spoken of so harshly. Uruguay, for example, was a founding Member of the United Nations and had participated consistently in the fight against racism and colonialism since 1945, in such bodies as the General Assembly and its committees, the Security Council, the Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, the Committee on South West Africa, the Economic and Social Council and the Commission on Human Rights. He appealed to the members of the Committee to work together to achieve the aims of the Charter and not engage in futile polemics. Uruguay would always side with those who were defending just causes such as the elimination of all forms of racial

discrimination and that was why it had joined in proposing the resolution in question. It understood the impatience of the African nations, but they should not reject the legal system, which was the only means of achieving justice.

14. Mr. PARDOS (Spain) said with regard to draft resolution A/C.3/L.1800/Rev.1 that, while his delegation condemned racial discrimination and *apartheid*, it considered that those matters were outside the Committee's competence. Moreover, it was inappropriate to refer in the same resolution to racial discrimination and *apartheid* in South Africa and to the attitude of Portugal, which had always encouraged racial integration in its Territories. His delegation had voted in favour of operative paragraph 7, in conformity with the attitude taken by it in the Security Council on 17 March 1970 on the situation in Rhodesia.¹ The controversial elements in the resolution had placed many delegations in a difficult position. His delegation agreed with the basic principles underlying the draft resolution but, for the reasons indicated, had been unable to support it.

15. Miss SOLESBY (United Kingdom) said that her delegation's negative vote on paragraphs 5 and 6 and the eighth preambular paragraph of draft resolution A/C.3/L.1800/Rev.1 did not apply to Southern Rhodesia. Those paragraphs should have been limited to Southern Rhodesia, in which case her delegation would have voted for them.

16. Mr. ATKINS (New Zealand) said that his delegation had voted against draft resolution A/C.3/L.1802/Rev.1, even though it supported some of its provisions, because the effect of operative paragraphs 1 and 2 was to put a dangerous gloss on the carefully worded statement on "the principle of equal rights and self-determination of peoples" contained in the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)). It hoped that in future due regard would be paid to that important Declaration, which was the result of many years of painstaking work by a subsidiary organ of the Assembly with specialized expertise.

17. Miss MAKOLO (Democratic Republic of the Congo), referring to the remarks made by the USSR representative at the preceding meeting, said that she had explained her delegation's attitude on the draft resolutions at the 1776th meeting and it had been reaffirmed by the Permanent Representative of the Democratic Republic of the Congo to the United Nations at the 1777th meeting. The USSR representative seemed not to have observed that her delegation had voted in accordance with those statements. She would like to state her delegation's position in connexion with the link established by the USSR representative between the votes of certain delegations, including hers, and that of Portugal. The USSR representative seemed to have forgotten that on several occasions his own delegation had voted in the same way as had those he described as imperialist and reactionary, and that his country, which professed to be in the vanguard of Marxism,

signed commercial, cultural and other agreements with countries it described as imperialist, such as the United States of America. If her own reasoning were like that of the USSR representative she would only be able to conclude that the epithet "revisionist" as applied to his country by certain States was justified.

18. Mr. VAN WALSUM (Netherlands) said that in voting against certain paragraphs of draft resolution A/C.3/L.1800/Rev.1, his delegation had unequivocally dissociated itself from the condemnation of States that maintained relations with South Africa and from the condemnation of the United Kingdom Government for its policy concerning the Rhodesian rebellion. In deciding not to vote against the draft resolution as a whole, despite serious misgivings on those points, it had acted in a spirit of compromise towards those delegations which had clearly stated their preference for that resolution but had been willing to allow draft resolution A/C.3/L.1799/Rev.1 to be adopted as well because they had to admit, in all sincerity, that every paragraph of the latter was acceptable. It was regrettable that several delegations that had considered the draft resolution excellent when it was first introduced had voted against it in a concerted effort to bring about its defeat. He was pleased at its adoption, because a condemnation of *apartheid*, endorsed by all countries that maintained some form of relation with South Africa, was more likely to have some positive effect than a condemnation couched in such violent terms as to render its endorsement by those countries virtually impossible.

19. Miss McPHERSON (Australia) said that she wholeheartedly supported the statement made at the previous meeting by the Norwegian representative concerning the competence of the Third Committee. It was not the Committee's role to consider sanctions or political and economic relations with South Africa or to suggest that South Africa should be expelled from the United Nations and that Governments should break off all relations with that country. Accordingly, her delegation had been unable to accept the substance of many paragraphs of draft resolution A/C.3/L.1800/Rev.1, notably operative paragraphs 1, 2, 4, 5, 6 and 7 and had therefore voted against it. At the same time, she wished to emphasize that her Government was firmly opposed to the policy of *apartheid* and to all other forms of racial discrimination. In his address to the General Assembly in 1966, the Minister for External Affairs of Australia had said Australia believed that a society and form of government could not and should not persist where a minority dominated a majority and where basic human rights and opportunities were denied to any of the population. Australia believed in basic human rights and the participation of all persons in the life of a country. Neither a majority nor a minority should be oppressed, or denied opportunities of participation in government. It was with those principles in mind that her delegation had voted in favour of draft resolutions A/C.3/L.1799/Rev.1 and A/C.3/L.1801. Her country's vote against the adoption of draft resolution A/C.3/L.1802/Rev.1 should be viewed in the light of her earlier comment on the competence of the Committee, the statements of Australian representatives in other United Nations bodies and the statement in the general debate in the General Assembly by the Australian Minister for External Affairs at the 1846th plenary meeting on 23 September 1970.

¹ See *Official Records of the Security Council, Twenty-fifth Year, Supplement for January, February and March 1970*, document S/9696.

20. Mr. KUSSBACH (Austria) said that his delegation fully agreed with a number of the ideas embodied in draft resolution A/C.3/L.1800/Rev.1 and particularly the concern expressed in the third preambular paragraph at the fact that the numerous resolutions adopted previously had had little or no effect on the evils of racism. In many respects, the resolution had endeavoured to focus attention on the importance of concrete action by Member States to combat racism on the basis of the relevant United Nations resolutions. On the other hand, he felt that some of the measures contemplated in the document went beyond what could reasonably be expected from the Committee and from Member States. His delegation had therefore been unable to support the specific proposals formulated in operative paragraphs 4, 5, 6 and 7. For similar reasons, it had not found it possible to endorse the last phrase of operative paragraph 1 of draft resolution A/C.3/L.1802/Rev.1. Consequently it had abstained from voting on the two resolutions as a whole.

21. Mr. MAGONGO (Swaziland) said that his delegation had voted according to its conscience and had no apologies to make, particularly to those who would not admit that *apartheid* was a crime against humanity.

22. Mr. RYBAKOV (Union of Soviet Socialist Republics), speaking in exercise of his right of reply, said that the inappropriate references to his country that had been made by the representatives of Uruguay and the Democratic Republic of the Congo were all the more surprising because his own delegation had mentioned neither country by name, either in the general debate or when explaining its vote. He had been glad to hear from the Uruguayan representative that Uruguay was opposed to racism; what the USSR, Indian and Saudi Arabian representatives had said was not intended to cast any doubt on Uruguay's sentiments, but merely to make an objective appraisal of the draft resolution of which Uruguay had been a sponsor. They continued to believe that that text counteracted draft resolution A/C.3/L.1800/Rev.1 and was directed towards weakening the effect of the latter; the explanations of vote of the supporters of draft resolution A/C.3/L.1799/Rev.1 left no doubt on that score. It was the sovereign right of every delegation to give its views on any text before the Committee; unlike some other delegations, his own would remain within the bounds of decency and would refrain from commenting on the activities of the Democratic Republic of the Congo and from contributing to a discussion based on distasteful and illogical arguments. The treaties which the Soviet Union concluded with other countries were its own concern, and no unworthy aspersions could alter the fact that its policy had always been directed towards peaceful coexistence and friendly relations with all nations. With regard to the insinuation that the USSR was tending to shift its policy, he wished to state categorically that his country had consistently combated racial discrimination in all its forms, and particularly *apartheid*. Such insinuations were particularly misplaced because the Soviet Union had always supported and would continue to support the struggle of peoples against colonialism and racial discrimination.

23. Miss MAKOLO (Democratic Republic of the Congo) said that, in view of the terms used by the USSR

representative in his statement, her delegation reserved the right to make a full reply at a later stage.

AGENDA ITEM 47

Respect for human rights in armed conflicts: report of the Secretary-General (A/7720, A/8003, chap. IX, sect. E; A/8052, A/C.3/L.1797/Rev.1, A/C.3/L.1798)

24. The CHAIRMAN invited the Committee to take up agenda item 47 and announced that Colombia had become a sponsor of draft resolution A/C.3/L.1797/Rev.1.

25. Mr. SCHREIBER (Director, Division of Human Rights) recalled that, in its resolution 2444 (XXIII), the General Assembly had recognized, *inter alia*, the necessity of applying basic humanitarian principles in all armed conflicts, and had affirmed that the provisions of resolution XXIII of the International Conference on Human Rights² needed to be effectively implemented as soon as possible. The General Assembly had invited the Secretary-General to study steps which could be taken to secure the better application of existing international humanitarian conventions and rules in all armed conflicts and the need for additional conventions of that type or for other appropriate legal instruments to ensure the protection of civilians, prisoners and combatants in all armed conflicts, and the prohibition and limitation of the use of certain methods and means of warfare. The first report of the Secretary-General to the General Assembly (A/7720), which was now again before the Committee, had covered the whole of the ground indicated by the General Assembly and had endeavoured to place the problem of human rights in armed conflicts within the framework of the objectives and the over-all action of the United Nations in the field of human rights. It had contained observations on some aspects of the Geneva Conventions of 1949 as they related to United Nations instruments in the field of human rights and had outlined steps to secure respect for humanitarian principles in all armed conflicts through the better application and reaffirmation of existing international conventions and the adoption of additional legal instruments and other measures. One of the many conclusions reached was that the information gathered so far indicated the need for different approaches depending on the distinct problems to be dealt with.

26. At the previous session, in its resolution 2597 (XXIV), the General Assembly had recognized that the study requested in resolution 2444 (XXIII) should be continued and had requested the Secretary-General to give special 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 and to the better application of existing humanitarian international conventions and rules to such conflicts. In addition, the Secretary-General had been requested to consult and co-operate closely with the International Committee of the Red Cross in regard to the relevant studies being undertaken by that Committee. Member States had been requested to extend him all

² See *Final Act of the International Conference on Human Rights* (United Nations publication, Sales No. E.68.XIV.2), p. 18.

possible assistance and the Commission on Human Rights and the Economic and Social Council had been invited to submit their comments on document A/7720.

27. The Secretary-General's second report (A/8052) was relatively long and substantial, for the subject was a complex and difficult one. No one could fail to realize the importance of the subject of respect for human rights in armed conflicts and it might be said that world public opinion was demanding the most effective action possible by the United Nations, which represented the international community, and by all those who would contribute to the achievement of the desired goal. The Secretary-General was fully aware of those aspirations, which he shared. In his study he had endeavoured to prove himself equal to the important task entrusted to him and he was grateful for the excellent co-operation extended to him on many sides. Since document A/8052 was a continuation of the earlier study (A/7720), the two reports should be considered together. The broad outlines of the first report seemed to have met with a favourable reaction and the suggestions in the second report did not therefore present any great differences. The second report studied the problem and the present situation in greater depth and sometimes, in such matters as the question of sanctuaries for civilians not participating in hostilities and the increased role of international organizations, it entered into more detail and was more specific regarding possible solutions and the technical procedures for arriving at them.

28. Chapter II of the report (A/8052) set forth general observations and guidelines and included the basic factors which had governed the approach of the Secretary-General in formulating his considerations and suggestions. For example, paragraph 12 stated that, whatever the purport or nature of the suggestions, it should be clearly understood that nothing in the report was meant to condone resort to armed conflict in any form, outside the limited categories where the Charter authorized resort to force. Paragraph 13 indicated the Secretary-General's understanding that the purpose of the General Assembly in examining the question was a humanitarian one, independent of any political considerations which might relate to specific conflicts, and that it was basically an endeavour to provide a greater degree of protection for the integrity, welfare and dignity of those directly affected by military operations pending the earliest possible solution to conflicts. One of the conclusions reached in paragraph 14, was that the text of the existing four Geneva Conventions of 1949 should as far as possible remain untouched and that they should be better applied and adapted to developments in the methods used in armed conflicts since 1949. Similarly, in paragraph 15, it was stated that existing instruments showed certain imperfections, inadequacies and gaps which the international community should try to remedy. It was also pointed out in paragraph 16 that United Nations instruments already in force and those which still required ratifications in order to become fully operative might be invoked to protect human rights at all times, thus completing in certain respects and lending support to the international instruments especially applicable in conditions of war or armed conflicts, and that the observations in the previous report in that regard had attracted much attention. In addition, as noted in paragraph 17, it was felt that there was strong support for finding ways of giving expression to

the international concern for victims of armed conflicts by strengthening the role of already existing international organizations and by setting up new ones whose purpose it would be to facilitate and verify the observance of international human rights norms relating to such conflicts. An effort should be made to eliminate some of the obstacles now encountered by the International Committee of the Red Cross, while institutionalizing, through United Nations organs or otherwise, other international efforts. Lastly, paragraph 18 referred to ways of implementing measures which might be envisaged, within the framework of the United Nations, in pursuance of the suggestions made by the Secretary-General or in the context of the problem as a whole.

29. As pointed out earlier, General Assembly resolution 2597 (XXIV) stated that the study should be continued in order to facilitate the presentation of concrete recommendations for the full protection of civilians, prisoners and combatants in all armed conflicts and for the prohibition and limitation of the use of certain methods and means of warfare. The Secretary-General was fully prepared to pursue particular aspects of the study and to follow activities undertaken outside the United Nations, such as those of the International Committee of the Red Cross, which intended to convene a meeting of government experts in 1971, and to submit reports on those matters to the General Assembly. Now it was for the Governments of the sovereign Member States to determine the urgency to be attached to the various questions raised and the best methods to be adopted to deal with those questions within and outside the framework of the United Nations. He assumed that the Organization would not wish the present momentum to be lost and that it would want to spur international efforts in the field of human rights in armed conflicts and to meet the responsibilities imposed by the Charter of the United Nations.

GENERAL DEBATE

30. Mr. GUNewardene (Ceylon) said that, in view of his country's consistent interest in respect for human rights in armed conflicts, it was particularly fitting for it to participate in the debate at the present time, when the voice of non-alignment was among the few moral correctives in a world in which tension and strife were increasing but awareness of human rights was apparently declining. The question could not be dealt with in isolation, for it had naturally evolved in the context of international developments; thus, the comprehensive and once adequate body of international instruments on the subject now required re-examination. Those instruments had reflected an era of formal declarations of war, diplomatic ultimatums, low-velocity weapons and clearly defined combat patterns: by those out-dated criteria, applicable when the 1907 Hague Regulations (annex to the Convention respecting the laws and customs of war on land³) had been drafted, no international conflicts could be said to have taken place since the Second World War, whereas in fact there had been continuous armed struggle in one or another part of the world for the past twenty-five years, at the cost of 20 to 25 million human lives.

³ See Carnegie Endowment for International Peace, *The Hague Conventions and Declarations 1899-1907* (New York, Oxford University Press, 1915).

31. The Secretary-General's reports (A/7720 and A/8052) and the specialized literature on the question confirmed the need for revision of the instruments governing the human rights aspects of armed conflicts. It was to be hoped that the specialized agencies would participate actively in the meeting of governmental experts to be convened by the International Committee of the Red Cross in Geneva in 1971 and that that organization would find it possible to invite a larger number of participants than the forty now contemplated. While Ceylon agreed that the details of bringing the instruments up to date were best left to specialists working under international supervision, it wished to make a few general remarks on some of the over-all principles.

32. In the first place, a study of the protection of civilians was especially pertinent in view of the improvements in communications, transport, weapons and means of indoctrination which had transformed war from a contest between aristocracies into a struggle of peoples, involving civilians as well as combatants, with strategies based on wholesale destruction of life and property, yet the main international instrument governing the subject remained The Hague Regulations of 1907. Those Regulations should be supplemented and expanded on the basis of the three principles defined in General Assembly resolution 2444 (XXIII). Paragraph 42 of the Secretary-General's second report (A/8052) also contained valid suggestions for the establishment of norms for the protection of civilian populations in contemporary armed conflict; those suggestions, together with other alternatives outlined in chapter IV of the report, concerning the protection of civilians, provided useful material for further study. Another basic need was to find an acceptable modern definition of the word "civilian". The importance of civilian protection was emphasized by recently compiled data which showed that only 5 per cent of those killed in the First World War had been civilians, whereas that figure had risen to 48 per cent in the Second World War and to 84 per cent in the Korean War, and the level was reportedly higher in the Viet-Nam conflict. Even if the United Nations was unable to reduce the incidence of warfare, it should at least attempt to alleviate the suffering of innocent victims.

33. Secondly, the protection of combatants in international conflicts was currently governed by Article 23 of The Hague Regulations and by the first three Geneva Conventions of 1949. But the emergence of a new category of combatants, i.e. guerrilla fighters, made a re-evaluation necessary, particularly since many of the causes for which guerrilla groups were fighting were supported both morally and materially by the overwhelming majority of States Members of the United Nations, as in the case of southern Africa. Another factor which necessitated re-evaluation was the use of modern technology in warfare: provisions prohibiting the killing or wounding of a surrendering enemy might seem obsolete now that it was possible, through the use of such means as automated weapons systems, to cause such harm without, apparently, being aware of it. Furthermore, it was essential to establish standards relating to "treacherous" conduct, the use of "ruses of war" and the like in the circumstances of modern conflicts.

34. Thirdly, the Secretary-General's second report indicated that the third Geneva Convention of 1949, relative

to the treatment of prisoners of war, when effectively applied, could be regarded as providing a reasonable degree of protection to persons taken captive in the course of military hostilities. At a time when there were probably more prisoners of war and detainees in the world than ever before, that statement required careful scrutiny. His delegation could not agree with it, as there were insidious ways of treating captives, particularly in attempts to obtain information, which had not been envisaged in 1949. Such means as chemoserosums and environmental adjustment techniques might not patently violate the rights of prisoners, yet might enable the captors to secure advantages which were not contemplated in the Convention. A legal framework should be devised to take those and similar developments into account.

35. Fourthly, with regard to the prohibition and limitation of certain methods and means of warfare, his Government unreservedly condemned the use of chemical and bacteriological agents in armed conflicts. No Government with any claim to civilization and humanity could use those weapons, which might cause the physical destruction of opponents but were surely self-defeating in that they would inevitably bring about the eventual moral destruction of the users. He appealed to all States capable of producing such materials to subscribe to the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare.⁴ As an Asian country, Ceylon felt particularly deeply on that issue: no Asian could be unmoved by the widespread use of chemical sprays in Viet-Nam at a time when every item of food was so valuable to that undernourished part of the world. In 1969 alone, 1,300,000 acres of land in South Viet-Nam had been treated with defoliants and herbicides, at a cost of \$71 million. That war measure affected non-combatants even more than active participants and its long-term outcome in terms of the ecological and genetic balance was as yet undetermined, but could not be other than harmful. Ceylon urged the cessation of those and similar programmes wherever they might be applied and also subscribed to the suggestion in paragraphs 125 and 126 of the Secretary-General's second report that a study should be undertaken of napalm weapons and the effects of their possible use. He would not dwell at length on the need to suspend nuclear and thermonuclear testing, but wished to record his Government's conviction that the international community would be far safer if the resources used for nuclear weapons testing and production were used for economic development.

36. A fifth issue with which his Government was concerned as a matter of priority related to internal, non-international conflicts. There, a distinction should be made between organized, co-ordinated forces whose operations might be assimilated to international war and the more dispersed, generally less well supplied and less formally organized guerrilla fighters. With the prospect of armed conflict becoming more intra-national and less international in forthcoming years, the condition of those combatants would require increasing consideration. Existing international instruments were inadequate in such situations, and it was essential to initiate a body of new provisions which would have international recognition, although essen-

⁴ League of Nations, *Treaty Series*, vol. XCIV, 1929, No. 2138.

tially applicable to internal circumstances. General Assembly resolution 2444 (XXIII), resolution XIII of the XXIInd International Conference of the Red Cross, held in 1969, General Assembly resolution 2621 (XXV), adopted at the 1862nd plenary meeting on 12 October 1970, and the Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)) all directly or indirectly drew attention to that deficiency in humanitarian law. It was essential to establish ethical norms relating to domestic armed conflicts, while recognizing the sovereign responsibility of each State for its internal affairs. Resistance movements and guerrilla fighters must not be deprived of humanitarian safeguards. If there had been even a skeletal structure of relevant agreements, the carnage of many recent "civil" wars might well have been reduced.

37. His Government was particularly concerned by the humanitarian aspects of overt and covert interference by outside parties in purely national conflicts. The major Powers had the physical resources to intensify the violence of such conflicts, which might be conducted at a less lethal level if left to be resolved internally. Ceylon appealed to them to exercise restraint and not to allow intervention to hold back progressive forces struggling for their freedom. With regard to the protection of civilians and combatants in conflicts arising from struggles for liberation from colonial and alien rule, many resolutions of United Nations bodies registered international concern at repression of a colonial nature. Support of the aspirations of peoples to self-determination was based on the fact that those peoples were deprived of their fundamental human rights. Ceylon believed that the existence of colonialism was in fact tantamount to the existence of a state of conflict and must be treated as subject to the provisions relevant to the latter.

38. Sixthly, with regard to international assistance in and supervision of the application of humanitarian rules to armed conflict, although his delegation endorsed the need for some evaluating machinery, it wished to point out that the creation or expansion of international agencies with a possible judicial or quasi-judicial status was open to major abuse. The principles to be considered in establishing such machinery were impartiality, complete absence of political motivation, specialized intellectual capacity and internationally approved procedures; but his delegation believed that no steps should be taken in that respect until the relevant instruments had been brought up to date. It therefore supported the proposal of the International Committee of the Red Cross to hold a conference in May and June 1971. Two peripheral questions arose in connexion with that facet of the problem. With regard to the first, relating to the concept of the universal ownership of the cultural heritage of mankind, Ceylon believed that a more effective way of preserving that human right should be found than that envisaged in the Convention for the Protection of Cultural Property in the Event of Armed Conflict, done at The Hague in 1954.⁵ The second concerned justice to those defeated in war: the principle of trial of the vanquished, whatever their crimes, by the victors, however enlightened, seemed to be disproportionately weighted on one side, in terms of human rights,

and a more humane method of meting out justice should be discussed.

39. Having given his delegation's views on six specific points, he wished to outline its attitude to the subject in its entirety. Ceylon believed that the sanctity and validity of human rights agreements, especially in times of armed conflict, rested more on the moral intent of the parties concerned than on their legal adherence. In that spirit, it urged that all legally constituted régimes should be allowed to participate in forthcoming years in the work programme relating to the item under discussion. It did not think membership problems should be injected into discussions of humanitarian law, and it therefore appealed to all Member States not to be bound by their political positions on the issue but to evolve a genuinely international approach. Inspired by humanitarianism, Members must try to achieve a universality which might ultimately be mirrored by the United Nations itself.

40. There was a basic need for disseminating information on respect for human rights in armed conflicts. His Government had already proposed at the current session (1746th meeting) that United Nations and human rights studies should be included in the curricula of all institutions of learning. The history, background and relevance of such instruments as The Hague Regulations and the Geneva Conventions and other aspects of the subject of human rights in armed conflict were an important part of those studies and his delegation again urged the specialized agencies concerned to press for the inclusion of the subject in educational syllabuses throughout the world. Knowledge bred understanding and commitment, which were far better deterrents to breaches of human rights than any supervisory agency seeking to ensure compliance with legal agreements.

41. The developing world, comprising 75 per cent of the world's population and generating only 18 per cent of the world's wealth, had a deep concern with world peace. It was widely held that war was one of the constants of history: if that was so, the main victims were the poorer countries, where economic deprivation, power politics and the legacies of colonialism fuelled instability and social disequilibrium. Their only protection rested in the enunciation and general acceptance of valid humanitarian agreements setting forth, as a minimum, some clearly stated provisions for the safeguarding of human rights. That task could not, of course, be accomplished by a resolution, but discussions on the subject could certainly contribute to the achievement of the goal. The close co-operation of the United Nations and the specialized agencies with the International Committee of the Red Cross was essential, and he paid a tribute to the International Committee for the valuable work it had done. In conclusion, it was most appropriate for the subject of human rights in armed conflict to have been raised at the twenty-fifth anniversary session of the United Nations, which had adopted two Declarations containing provisions of considerable relevance to that item (see General Assembly resolutions 2625 (XXV) and 2627 (XXV)). The Committee's debate would be only the beginning of a long effort to be continued in forthcoming years; but if its work could reduce even marginal suffering, it would have performed a valuable service.

42. Mr. TRINH HOANH (Cambodia) said that human rights during periods of armed conflict were being violated

⁵ United Nations, *Treaty Series*, vol. 249, 1956, No. 3511.

daily in his country by the Viet-Cong and the North Viet-Nameese invaders. Without going into the question of the almost daily artillery bombardment of Cambodian towns and villages, causing hundreds of innocent victims amongst the civilian population, or the assassination of teachers and students and of doctors and nurses who impartially tended the Viet-Cong and North Viet-Nameese wounded even though the latter were waging an undeclared war, he wished to mention only the special case of journalists of all nationalities sent to Cambodia since the outbreak of hostilities. It should be remembered that Prince Sihanouk, when he had been in power, had prohibited the entry of foreign journalists into Cambodia, for they had been considered troublesome witnesses to his complicity with the Viet-Cong and North Viet-Nameese aggressors. After the lawful overthrow of the Prince, the Khmer Government had opened the door to journalists and members of the press of all countries without any discrimination. However, those unarmed journalists were frequently arrested, ambushed or even deliberately assassinated by Viet-Cong and North Viet-Nameese units. To quote merely a few examples, of twenty-seven journalists taken prisoner in recent months, only eight had been released and there was

no news of the remaining nineteen. Two correspondents for the Columbia Broadcasting System (CBS) and an independent Indian journalist had been killed in an ambush on 31 May 1970, two French radio and television correspondents had been taken prisoner on 7 July 1970 and had later died in captivity and, as recently as 28 October 1970, two United Press International (UPI) journalists had been killed at Takéo.

43. His delegation was therefore particularly gratified to note that the question of respect for human rights in armed conflicts was now being considered by the Committee and by the General Assembly and it would welcome any effort to defend the rights and ensure the protection of civilians, prisoners and combatants, Red Cross and medical personnel and particularly of unarmed journalists, who were in no way participating in the conflict but were merely performing their task of gathering news. For that reason he would support the adoption of draft resolutions A/C.3/L.1797/Rev.1 and A/C.3/L.1798.

The meeting rose at 5.30 p.m.